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BEFORE THE  
ILLINOIS COMMERCE COMMISSION

FRONTIER COMMUNICATIONS CORPORATION, ) DOCKET NO.  
VERIZON COMMUNICATIONS, INC., VERIZON ) 09-0268  
NORTH, INC., VERIZON SOUTH, INC., and )  
NEW COMMUNICATIONS OF THE CAROLINAS, )  
INC. )

)  
Joint application for the approval of a )  
reorganization pursuant to Section 7-204 )  
of the Public Utilities Act; the )  
issuance of certificates of exchange )  
service authority pursuant to Section )  
13-405 to New Communications of the )  
Carolinas, Inc.; the discontinuance of )  
service for Verizon South, Inc., )  
pursuant to Section 13-406; the issuance )  
of an order approving designation of New )  
Communications of the Carolinas, Inc. as )  
an eligible telecommunications carrier )  
covering the service area consisting of )  
the exchanges to be acquired from )  
Verizon South, Inc. upon the closing of )  
the proposed transaction and the )  
granting of all other necessary and )  
appropriate relief.

Wednesday, January 20, 2010

Springfield, Illinois

Met, pursuant to notice, at 9:15 a.m.

BEFORE:

MS. LISA TAPIA, Administrative Law Judge

SULLIVAN REPORTING CO., by  
Carla J. Boehl, Reporter  
CSR #084-002710

1 APPEARANCES :

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4 -and-

5 MR. KEVIN SAVILLE  
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8 (Appearing on behalf of Frontier  
9 Communications Corporation)

10 MR. JOHN E. ROONEY  
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12 Chicago, Illinois 60606

13 -and-

14 MR. A. RANDALL VOGELZANG  
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16 Irving, Texas 75038

17 -and-

18 MR. CHRISTOPHER OATWAY  
Assistant General Counsel  
19 1320 North Court House Road  
Arlington, Virginia 22101

20 (Appearing on behalf of Verizon  
21 Communications, Inc., Verizon  
North, Inc., Verizon South,  
22 Inc., and New Communications of  
the Carolinas, Inc.)



1 APPEARANCES: (Continued)

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3 Office of General Counsel  
4 527 East Capitol Avenue  
5 Springfield, Illinois 62701

6 (Appearing on behalf of Staff  
7 witnesses of the Illinois  
8 Commerce Commission)

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14 (Appearing on behalf of United  
15 States Department of Defense  
16 and all other federal executive  
17 agencies via teleconference)

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1	I N D E X				
2					
3	<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
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13	SAMUEL S. McCLEERREN				
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1           MR. OATWAY:   On behalf of the Verizon entities,  
2   I am Christopher Oatway, Assistant General Counsel  
3   with Verizon, 1320 North Court House Road, Arlington,  
4   Virginia 22101.

5           MR. VOGELZANG:   Also on behalf of Verizon  
6   Communications, Inc., Verizon North, Inc., Verizon  
7   South, Inc., and New Communications of the Carolinas,  
8   Inc., Randall Vogelzang, General Counsel for Verizon,  
9   600 Hidden Ridge, Irving, Texas 75015.

10          MR. ROONEY:   Also on behalf of the Verizon  
11   companies, John Rooney of the firm Sonnenschein, Nath  
12   and Rosenthal, L.L.P., 233 South Wacker Drive, Suite  
13   7800, Chicago, Illinois 60606.

14          MS. SATTER:   Appearing on behalf of the People  
15   of the State of Illinois, Susan L. Satter, 100 West  
16   Randolph Street, Chicago, Illinois 60601.

17          MR. RUBIN:   Appearing for the International  
18   Brotherhood of Electrical Workers Locals 21, 51 and  
19   702, Scott Rubin, 333 Oak Lane, Bloomsburg,  
20   Pennsylvania 17815.

21          MR. MELNIKOFF:   Appearing on behalf of the  
22   United States Department of Defense and all other



1 Federal Executive Agencies, Stephen S. Melnikoff. My  
2 address is 901 North Stuart Street, Suite 700,  
3 Arlington, Virginia 22203.

4 MR. HARVEY: For the Staff of the Illinois  
5 Commerce Commission, Matthew L. Harvey, Janis E. Von  
6 Qualen and appearing by telephone Jessica L. Cardoni.  
7 Our addresses are respectively 160 North LaSalle  
8 Street, Chicago, Illinois 60601 and 527 East Capitol  
9 Avenue, Springfield, Illinois 62701.

10 JUDGE TAPIA: Is there anyone else wishing to  
11 enter an appearance? Thank you.

12 Before we go into testimony, before I  
13 hand it over to the Frontier attorneys, there is one  
14 preliminary matter that I need to go over.

15 Ms. Satter, is it still your intent to  
16 file a motion to strike certain portions of  
17 Mr. Gregg's testimony?

18 MS. SATTER: Of the oral testimony?

19 JUDGE TAPIA: Right.

20 MS. SATTER: Yes, I will do that after I obtain  
21 the transcript.

22 JUDGE TAPIA: Well, let me give you a deadline.

1 If you could file by January 22 by 5:00 p.m. and  
2 then, Mr. Murphy, you can respond by Tuesday, January  
3 26 at 5:00 p.m.

4 MS. SATTER: I don't think I will have the  
5 transcript by then. The nature of the motion is  
6 simply that when Mr. Gregg answered questions and  
7 referred to statements made by the Pennsylvania  
8 consumer counsel's office upon his inquiry, that that  
9 is hearsay and that should be stricken. But I won't  
10 have the citations until I have the transcript.

11 JUDGE TAPIA: Okay. So it is my understanding  
12 that the exhibits that were admitted by Mr. Murphy  
13 and the testimony has nothing to do with that. You  
14 have no problems with that.

15 MS. SATTER: No, no, no, no, no, in the --

16 MR. MURPHY: You are talking about the cross  
17 examination is what you want to make your motion on.

18 JUDGE TAPIA: Mr. Murphy, you have to speak  
19 into the microphone.

20 MS. SATTER: Just so I am clear, I thought that  
21 yesterday I made a motion relative to Mr. Gregg's  
22 written testimony.

1 JUDGE TAPIA: Right, and you stated certain  
2 lines that were stricken.

3 MS. SATTER: It was just three lines and I  
4 believe that was granted.

5 JUDGE TAPIA: Yes.

6 MS. SATTER: So that's taken care of.

7 JUDGE TAPIA: Right.

8 MS. SATTER: And then Mr. Gregg had made  
9 practically the same statements in cross examination  
10 on several occasions, I think possibly three. But it  
11 was on several occasions, but I don't remember  
12 clearly enough and that's why I thought it would be  
13 best if I have the transcript for that.

14 JUDGE TAPIA: Okay. My understanding was that  
15 you were also -- your second motion was certain  
16 testimony that was in the exhibits.

17 MS. SATTER: No, the only testimony that was in  
18 the exhibits that was written was the one three-line  
19 section.

20 JUDGE TAPIA: Okay, okay. Then when in order  
21 for you to have access to the transcript?

22 MS. SATTER: It is usually about two weeks,

1     although I have --

2             JUDGE TAPIA:   The time on this case is very  
3     tight.   Brief outlines -- actually, briefs are due  
4     on --

5             MR. HARVEY:   February 2, Your Honor.   I believe  
6     it is the 2nd.

7             JUDGE TAPIA:   I believe it is the 9th.

8             MR. VOGELZANG:   9th.

9             MR. MURPHY:   It is the 9th.   I need to remember  
10    this date.   It is my anniversary.

11            MR. HARVEY:   Initial briefs are due the 9th.   I  
12    apologize.

13            JUDGE TAPIA:   Mr. Harvey will have his in on  
14    the 2nd.

15            MR. HARVEY:   Staff is ruthlessly efficient,  
16    Your Honor, is all I can say.

17            JUDGE TAPIA:   So let's see what dates both  
18    parties can work with.   You have two weeks and then  
19    -- do you want to tell me at the end of the day today  
20    if you can talk and --

21            MS. SATTER:   That's a good idea.

22            MR. MURPHY:   You can order an expedited

1 transcript.

2 MS. SATTER: I can't. Maybe the Company can.

3 I cannot.

4 JUDGE TAPIA: We will defer that, and I will

5 hand it over to the Frontier attorneys to call the

6 first witness.

7 MR. SAVILLE: Good morning, Your Honor. Thank

8 you. Frontier would like to call Daniel McCarthy.

9 (Whereupon the witness was duly

10 sworn by Judge Tapia.)

11 JUDGE TAPIA: Thank you, you may be seated.

12 Whenever you are ready, Mr. Saville.

13 MR. SAVILLE: Thank you, Your Honor.

14 DANIEL MCCARTHY

15 called as a witness on behalf of Frontier

16 Communications, having been first duly sworn, was

17 examined and testified as follows:

18 DIRECT EXAMINATION

19 BY MR. SAVILLE:

20 Q. Mr. McCarthy, can you provide your name and

21 business address.

22 A. My name is Daniel McCarthy. My business

1 address is 3 High Ridge Park, Stanford, Connecticut  
2 06905.

3 Q. Can you identify what your title and  
4 responsibilities are with Frontier Communications?

5 A. Certainly. My title is Executive Vice  
6 President - Chief Executive Officer. My  
7 responsibilities include all phases of operations of  
8 our current businesses.

9 Q. And, Mr. McCarthy, do you have in front of  
10 you what is identified as the Direct Testimony of  
11 Daniel McCarthy dated July 8, 2009, and has been  
12 labeled as Joint Applicants' Exhibit 1?

13 A. I do.

14 Q. And did you cause to be prepared under your  
15 direction and control this direct testimony?

16 A. I did.

17 Q. And do you have any corrections or changes  
18 to this direct testimony?

19 A. I do.

20 Q. Can you please identify those?

21 A. On page 21, line 498, it should read  
22 "approximately 9500 employees."

1           Q.    So the change is page 21 of your direct  
2    testimony, line 498, the reference to "approximately  
3    11,000" should change to "approximately 9500," is  
4    that correct?

5           A.    That is correct.

6           Q.    And accompanying your direct testimony  
7    there was one exhibit, Exhibit 1.1, is that correct?

8           A.    Yes.

9           Q.    If I were to ask you the questions included  
10   in your prefiled direct testimony today on the stand,  
11   would your answers be the same?

12          A.    Yes.

13          Q.    Other than the one change that you have  
14   identified?

15          A.    Correct.

16          Q.    Mr. McCarthy, do you have in front of you a  
17   second document that has been labeled as Joint  
18   Applicants' Exhibit 1 Supplemental which is entitled  
19   the Supplemental Direct Testimony of Daniel McCarthy  
20   dated August 13, 2009?

21          A.    Yes.

22          Q.    And that testimony includes several

1 exhibits labeled Exhibit 1.2A through Exhibit 1.2I as  
2 well as Exhibit 1.3A through Exhibit 1.3I, is that  
3 correct?

4 A. That is correct.

5 Q. And was this supplemental direct testimony  
6 and the accompanying exhibits prepared under your  
7 direction and control?

8 A. Yes.

9 Q. And if you were asked the questions  
10 included in this supplemental direct testimony today,  
11 would your answers be the same?

12 A. Yes.

13 Q. Turning now, Mr. McCarthy, to your rebuttal  
14 testimony, do you have in front of you a document  
15 that has been marked as Frontier Exhibit 5.0, the  
16 Rebuttal Testimony of Daniel McCarthy dated November  
17 16, 2009?

18 A. Yes.

19 Q. And that Frontier Exhibit 5.0 includes a  
20 number of additional exhibits numbered 5.1 through  
21 5.15, is that correct?

22 A. Yes.



1           Q.    And the rebuttal testimony and the  
2   exhibits, were those prepared under your direction  
3   and control?

4           A.    They were.

5           Q.    And if you were asked -- let me step back.

6                    Do you have any changes or corrections  
7   to your rebuttal testimony?

8           A.    I have one correction.

9           Q.    Would you please identify that?

10          A.    On page 78, line 1938 should read "without  
11   similar conditions," rather than "without  
12   conditions."

13          Q.    So that change then on page 78 of your  
14   rebuttal testimony, line 1938, you would insert the  
15   word "similar" between "without" and "conditions", is  
16   that correct?

17          A.    Correct.

18          Q.    If I were to ask you the questions included  
19   in your prefiled rebuttal testimony today on the  
20   stand, would your answers be the same but for that  
21   one change?

22          A.    They would.

1           Q.    Thank you.  Lastly, Mr. McCarthy, if I  
2    could get you to turn to what's been marked as  
3    Frontier Exhibit 8.0 and entitled the Surrebuttal  
4    Testimony of Daniel McCarthy dated December 24, 2009,  
5    do you have that?

6           A.    Yes, I do.

7           Q.    And that testimony includes several  
8    additional exhibits numbered Exhibit 8.1 through  
9    Exhibit 8.9, is that correct?

10          A.    Correct.

11          Q.    And was the surrebuttal testimony and the  
12    accompanying exhibits prepared under your direction  
13    and control?

14          A.    Correct.

15          Q.    If you were asked the questions included in  
16    the prefiled testimony today on the stand, would your  
17    answers be the same?

18          A.    They would.

19          Q.    With respect to Exhibit 8.4 included in  
20    your surrebuttal testimony, and that exhibit is  
21    entitled Conditions Advocated by ICC Staff, do you  
22    have that exhibit?

1           A.    I do.

2           Q.    And is it your understanding that this  
3   Exhibit 8.4 represents conditions that Frontier is  
4   willing to agree to that were proposed by the  
5   Illinois Commerce Commission Staff through its  
6   testimony?

7           A.    It does.

8           Q.    And subsequent to Frontier filing this  
9   surrebuttal testimony on December 24, has Frontier  
10   engaged in further discussions through discovery  
11   requests with the Illinois Commerce Commission Staff?

12          A.    We have.

13          Q.    And based on that -- those discovery  
14   request responses and discussions, has the Illinois  
15   Commerce Commission Staff proposed some additional  
16   corrections or changes to Exhibit 8.4?

17          A.    They have.

18          Q.    And do you have a Revised Exhibit 8.4?

19          A.    I do.

20          MR. SAVILLE: Your Honor, Frontier Corrected  
21   Exhibit 8.4 was distributed by the parties yesterday.  
22   We would request that the Corrected Exhibit 8.4 be

1 substituted in Mr. McCarthy's testimony as a  
2 corrected exhibit. We can certainly make  
3 arrangements to have that filed through the e-Docket  
4 system today at the conclusion or at the conclusion  
5 of the hearing.

6 JUDGE TAPIA: Okay. Mr. Saville, you have  
7 identified it as 8.4 Revised or Corrected?

8 MR. SAVILLE: We have labeled it as 8.4  
9 Corrected.

10 JUDGE TAPIA: Corrected, okay.

11 BY MR. SAVILLE:

12 Q. And, Mr. McCarthy, do you adopt as part of  
13 your surrebuttal testimony the Corrected Exhibit 8.4?

14 A. I do.

15 MR. SAVILLE: Your Honor, at this time I would  
16 move that Frontier Joint Applicants' Exhibit 1.1 and  
17 the accompanying exhibits as well as the supplemental  
18 direct testimony which was Joint Applicants' Exhibit  
19 Supplemental and the accompanying exhibits, the  
20 Frontier Exhibit 5.0 and the accompanying exhibits  
21 with the rebuttal testimony and lastly Frontier  
22 Exhibit 8.0 with the surrebuttal testimony and the

1 accompanying exhibits be admitted.

2 JUDGE TAPIA: Is there any objection to the  
3 admission of these exhibits just stated by  
4 Mr. Saville? Hearing no objection, the Direct  
5 Testimony of Daniel McCarthy identified as Joint  
6 Applicants' Exhibit 1 with corrections made on the  
7 record by the witness Mr. McCarthy and the attachment  
8 Exhibit 1.1 is admitted into evidence.

9 The Supplemental Direct Testimony of  
10 Daniel McCarthy identified as Joint Applicants'  
11 Exhibit 1 Supplemental and the attachments Exhibit  
12 1.2, 1.2A through I, Exhibits 1.3, 1.3A through I,  
13 the Rebuttal Testimony of Daniel McCarthy identified  
14 as Frontier Exhibit 5.0 with corrections made on the  
15 record, the attached Exhibits 5.1 through 5.9, 5.10  
16 and 5.15, also the Surrebuttal Testimony of Daniel  
17 McCarthy identified as Frontier Exhibit 8.0 through  
18 8.3, Corrected Exhibit 8.4, Exhibit 8.5 through 8.9,  
19 is admitted into evidence.

20 (Whereupon Joint Applicants'  
21 Exhibits 1, 1.1, 1 Supplemental,  
22 1.2, 1.2A through I, 1.3, 1.3A

1 through I, Frontier Exhibits  
2 5.0, 5.1 through 5.15, 8.0, 8.1,  
3 8.2, 8.3, 8.4 Corrected, 8.5,  
4 8.6, 8.7, 8.8 and 8.9 were  
5 admitted into evidence.)

6 MR. SAVILLE: Your Honor, I would just note  
7 with respect to some of those exhibits there has been  
8 filed a public and a confidential proprietary version  
9 depending on the particular exhibit. So I just  
10 wanted that to go on the record.

11 JUDGE TAPIA: It will remain with this  
12 designation.

13 MR. SAVILLE: Thank you. Mr. McCarthy is  
14 available for cross examination.

15 JUDGE TAPIA: Thank you, Mr. Saville.

16 MR. HARVEY: If there is no objection, Staff  
17 will proceed first, Your Honor.

18 JUDGE TAPIA: Sure.

19 CROSS EXAMINATION

20 BY MR. HARVEY:

21 Q. Good morning, Mr. McCarthy. My name is  
22 Matthew L. Harvey. I represent the Staff of the

1 Illinois Commerce Commission with my colleague Janis  
2 Von Qualen. I just have a couple of questions for  
3 you, all of which will relate to Frontier Corrected  
4 Exhibit 8.4, so if you could get that in front of  
5 you, please.

6 A. I have it.

7 Q. Now, just by way of background, you are the  
8 Executive Vice-president and the Chief Operating  
9 Officer of Frontier Communications Corporation?

10 A. I am.

11 Q. And in that capacity you are authorized to  
12 enter into agreements and accede to conditions on  
13 behalf of the Company in this proceeding?

14 A. I am.

15 Q. And Frontier Corrected Exhibit 8.4 contains  
16 a number of such conditions which the Staff, as you  
17 understand, advocates that the Commission impose upon  
18 before it approves this transaction?

19 A. That's correct.

20 Q. And you are authorized to bind the Company  
21 to agree to and accede to the imposition of the  
22 conditions set forth in Frontier Corrected Exhibit

1     8.4 on behalf of the Frontier Communications  
2     Corporation, correct?

3             A.     That is correct.

4             Q.     And you do indeed so accede and agree,  
5     correct?

6             A.     That is correct.

7             Q.     Thank you.  Now, one other matter and this  
8     relates to a conversation that several of the  
9     attorneys had in the hall just a moment ago.  It is  
10    my understanding that Frontier, in addition to these  
11    conditions and indeed over and above these  
12    conditions, is prepared to accede to a further  
13    condition relating to the deployment of broadband, is  
14    that correct?

15            A.     That is correct.

16            Q.     And you will perhaps help me if I get this  
17    wrong, this condition would provide the Frontier  
18    Communications Corporation will deploy broadband  
19    throughout 85 percent of its Illinois footprint by  
20    the year 2013, is that correct?

21            A.     That is correct.

22            Q.     And by broadband, we mean --



1           A.    That would be a broadband product of a  
2   speed of 1.4 megabits.

3           Q.    And, again, you have the full authority of  
4   the corporation to accede to and agree to the  
5   imposition of that condition?

6           A.    Yes, I do.

7           Q.    And I guess one other sort of clarification  
8   question as to this new condition which I think needs  
9   perhaps a little more fleshing out than I have given  
10   it here, by 85 percent, how would that be calculated?

11          A.    First of all, I just want to make a point  
12   that this is above and beyond the commitment that we  
13   have made to bring Verizon South into compliance.

14          Q.    Thank you for the clarification.

15          A.    So we will still meet that condition which  
16   was 80 percent in two years.  Eighty-five percent  
17   commitment is really to serve all of 85 percent of  
18   the households looking across the footprint of  
19   Verizon with the speeds that I have laid out and to  
20   accomplish that by the end of 2013.

21          Q.    And it is your testimony that that's over  
22   and above the legal requirements described in

1 Condition 6 related to broadband deployment?

2 A. Correct.

3 MR. HARVEY: Thank you. I don't think I have  
4 anything further for this witness, Your Honor. Thank  
5 you very much, Mr. McCarthy.

6 JUDGE TAPIA: Thank you, Mr. Harvey. Who would  
7 like to go next. Mr. Rubin?

8 MR. RUBIN: Thank you.

9 CROSS EXAMINATION

10 BY MR. RUBIN:

11 Q. Good morning, Mr. McCarthy.

12 A. Good morning, Mr. Rubin.

13 Q. Before we get too far into this, I would  
14 like to make sure we refer to certain entities the  
15 same way so we don't end up confusing each other.  
16 For the Verizon service areas nationwide that  
17 Frontier hopes to acquire, how would you like to  
18 refer to those?

19 A. I think in the past we have referred to  
20 them as VSTO.

21 Q. So just VSTO? That's fine. And can we  
22 refer to the parent company Verizon Communications

1 simply as Verizon? Would that be all right?

2 A. That would be fine.

3 Q. And when we are talking about Verizon's  
4 operations in Illinois, can we call that Verizon  
5 Illinois?

6 A. Yes.

7 Q. Let me see if we can short circuit a few  
8 things here. Can we agree that Verizon, the parent  
9 company, is a financially stronger company than  
10 Frontier Communications Corporation?

11 A. I think I can agree that they are certainly  
12 much larger. They do have a better credit metric.  
13 However, it is just as important how they plan on  
14 operating in the state deploying capital. So the  
15 answer to your question is yes, I would agree that  
16 they are financially stronger.

17 Q. And just as an example, Verizon has an  
18 investment grade credit rating and Frontier does not,  
19 correct?

20 A. That is correct.

21 Q. For many years Frontier was known as  
22 Citizens Utilities and then as Citizens

1       Communications, is that right?

2             A.    That is correct.

3             Q.    When it was Citizens Utilities, did the  
4       Company have operations in natural gas, electricity,  
5       telephone, water and waste water utilities?

6             A.    We did.

7             Q.    And during that time Citizens -- or during  
8       most of that time Citizens had a Triple A bond  
9       rating, the highest bond rating available, isn't that  
10      right?

11            A.    I certainly was with the Company when we  
12      did have a Triple A bond rating. I can't testify to  
13      the year when we lost that Triple A bond rating.

14            Q.    Was it about ten years ago that Citizens  
15      decided to focus solely on the communications  
16      business?

17            A.    I believe that it was 10 to 12 years ago.

18            Q.    And it obviously took awhile to sell off  
19      all the assets and the other utility sectors, but you  
20      eventually accomplished that, didn't you?

21            A.    We did.

22            Q.    Do you recall roughly around what time you

1       became solely a communications company?

2           A.    I believe the last transaction was an  
3       electric property that closed in 2004.

4           Q.    And part of that sell-off included Citizens  
5       water utility operations here in Illinois, didn't it?

6           A.    That is correct.

7           Q.    You were with the Company during that  
8       change from a multi-utility company to a  
9       communications company?

10          A.    I was.  I have been with the Company for  
11       close to 20 years.

12          Q.    And I know you say in your testimony that  
13       you became president of Electric Lightwave.  Was that  
14       a CLEC operation that Citizens had?

15          A.    Electric Lightwave was a separate publicly  
16       traded entity and Frontier owned a majority of the  
17       Company.  I was the President - Chief Operating  
18       Officer of that company.

19          Q.    And what happened to Electric Lightwave?

20          A.    Ultimately we disposed of that asset.  We  
21       sold that business to Integra Telecom.

22          Q.    And how much of a loss did Citizens take on

1     that sale, if you recall?

2             A.    I don't believe we took a loss on the sale.  
3    I believe that what you might be referring is an  
4    impairment charge that was taken on the asset base.

5             Q.    And by impairment charge means you had to  
6    write down the equity investment on your balance  
7    sheet, is that right?

8             A.    I think that's the effect.    The impairment  
9    charge is really a complex accounting calculation  
10   that determines the value of the assets.

11            Q.    And was that in the neighborhood of 650 to  
12   700 million dollars?

13            A.    That sounds about right.

14            Q.    Would you agree that in Frontier's existing  
15   operating areas, in looking at them collectively, you  
16   have fewer customers today than you did last year?

17            A.    Certainly we have less access lines than we  
18   did a year ago.

19            Q.    And did you also have fewer access lines in  
20   2009 than you did in 2008?   I am sorry, I guess  
21   that's the one I just asked you.

22                       Did you have fewer access lines in

1       2008 than you did in 2007?

2           A.    Yes.

3           Q.    Is it correct that, again, for your

4       existing operations, approximately half of your

5       access lines are in the states of New York,

6       Pennsylvania and Minnesota?

7           A.    I think that's approximately correct.

8           Q.    And each of those markets is shrinking as

9       well, isn't it, in terms of access lines?

10          A.    Certainly, customers are making choices on

11       different technologies and sometimes that affects

12       access line counts.  But it doesn't necessarily mean

13       that we are losing the customer basis for the most

14       part.

15          Q.    Well, are you also losing revenues in those

16       states?

17          A.    Associated with the customer loss, yes.

18          Q.    Your last acquisition of any size was

19       Commonwealth Telephone back in March of 2007, is that

20       right?

21          A.    That is correct.

22          Q.    Since March of 2007 has Commonwealth lost

1 access lines?

2 A. Yes. I would say that my experience with  
3 the Commonwealth properties is that there were a  
4 significant -- I would say more than 50 or 60 percent  
5 of the losses had to do with the CLEC side of the  
6 business and that was heavily skewed by line sales to  
7 internet service providers. So it's the dial-up  
8 product that has really declined. Those customers  
9 have modified their business plans and in some cases  
10 left the markets.

11 Q. Let's turn to your direct testimony. I am  
12 looking at page 6.

13 A. Give me one second.

14 (Pause.)

15 Q. And down at the bottom of the page, lines  
16 158 through 160, you have some numbers about the  
17 number of voice and broadband connections and  
18 telephone access lines that Frontier serves. Can you  
19 update those numbers for us?

20 A. No, I don't have those numbers off the top  
21 of my head.

22 Q. All right. I distributed before we started



1     this morning a copy of Frontier's Form 10Q for the  
2     period ending September 30, 2009.

3                     Well, first, let me ask to have this  
4     marked for identification as IBEW Exhibit 10.0?

5             JUDGE TAPIA:   It will be so marked.

6                     (Whereupon IBEW Exhibit 10.0 was  
7                     presented for purposes of  
8                     identification as of this date.)

9             BY MR. RUBIN:   Thank you.

10            Q.    Mr. McCarthy, do you have that document up  
11    there with you?

12            A.    I do.

13            Q.    And are you familiar with this document?

14            A.    I am familiar with it, but if you could  
15    point me to the right page, that would be helpful.

16            Q.    Yes, I could.   Your counsel gets upset if I  
17    don't establish some foundation before I start asking  
18    you.   If you could look at page 32, and just to be  
19    clear the numbers are I guess at the bottom.   For the  
20    most part the numbers are at the bottom of the page,  
21    the way this was reproduced.

22                     And does this -- I guess, if I am

1 reading this correctly, does this show that as of  
2 September 30, 2009, Frontier had approximately 2.77  
3 million voice and broadband connections?

4 MR. SAVILLE: Mr. Rubin, I am sorry, what page  
5 are you looking on?

6 MR. RUBIN: I am looking on page 32 at the very  
7 top of the page. It has total access lines and then  
8 below that high speed internet subscribers and I am  
9 just adding those two numbers together.

10 MR. SAVILLE: Thank you.

11 THE WITNESS: Could you just repeat your  
12 question?

13 BY MR. RUBIN:

14 Q. Yes. As of September 30, 2009, did  
15 Frontier have approximately 2.77 million voice and  
16 broadband connections?

17 A. It looks approximately 2.77.

18 Q. And would you also agree that September 30,  
19 2009, you had approximately 2.15 million total access  
20 lines?

21 A. Correct.

22 Q. All right. So between the time that you

1 filed your direct testimony in July and the more  
2 recent numbers we have at the end of September,  
3 Frontier lost approximately 100,000 access lines, is  
4 that right?

5 MR. SAVILLE: I am going to object to the  
6 question again. It mischaracterizes his prefiled  
7 testimony. It does not indicate what date these  
8 numbers that were included in his prefiled testimony,  
9 what date those reflect.

10 BY MR. RUBIN: All right. I will be happy to  
11 rephrase the question.

12 Q. Mr. McCarthy, in your testimony, your  
13 direct testimony, when you said you currently serve  
14 2.25 million access lines, do you know as of what  
15 date that was true?

16 A. I believe that was at the end of '08.

17 Q. Okay. So between the end of 2008 and the  
18 end of September 2009 you lost approximately 100,000  
19 access lines?

20 A. I believe that is correct.

21 Q. And if my math is correct, that's about  
22 four percent of your access lines, does that sound

1     about right?

2             A.    For a nine-month period?

3             Q.    Yeah.

4             A.    It is probably pretty close because I think

5     our annualized rate is about six percent.

6             Q.    All right.  In your direct testimony at the

7     top of page 7, you say that at the end of 2008 you

8     served about 97,000 access lines in Illinois.  Do you

9     see that?

10            A.    Yes.

11            Q.    Do you have a more current number for us

12     about Illinois?

13            A.    I don't have a more current number for you,

14     but I think it hasn't changed appreciably.

15            Q.    I am sorry, I lost that.  You said it has

16     or has not changed?

17            A.    I don't think it has changed appreciably.

18            Q.    Would it be correct that your agreement

19     with Verizon says that Frontier will not layoff any

20     installers or technicians except for cause for 18

21     months after closing?

22            A.    That is correct.

1           Q.   Why is that time period limited to -- or,  
2   excuse me, why is that time period 18 months instead  
3   of some longer or shorter period of time?

4           A.   It was purely a negotiation point during  
5   the transaction, as I recall.

6           Q.   Was that provision determined or negotiated  
7   with any input from Verizon's labor union?

8           A.   No, the unions were not a party to the  
9   negotiations of the transaction.

10          Q.   After 18 months have you made any  
11   commitment to retain any certain size work force of  
12   installers and technicians?

13          A.   We haven't, although as you can tell from  
14   the commitment that I just went through with Staff,  
15   we have pretty aggressive plans for investing in  
16   broadband in the state.  And the technicians and the  
17   dedicated team here in Illinois will be vital to us  
18   being able to execute that.  So we have not assumed  
19   any kind of force reductions in Illinois.

20          Q.   Why is that 18-month commitment limited to  
21   installers and technicians as opposed to some other  
22   categories of employees?

1           A.    Again, it was just a negotiation point.

2           Q.    Well, have you made a similar commitment  
3   for customer service representatives?

4           A.    We have not, although in Ohio on the stand  
5   I made a commitment that we would maintain the Marion  
6   call center being open.

7           Q.    Just to be clear, that commitment didn't  
8   include any commitment as to the size of the work  
9   force at that center, did it?

10          A.    No, it did not.

11          Q.    All right.  Let's talk about broadband for  
12   a few minutes.  As we have said a few minutes ago,  
13   Commonwealth Telephone in Pennsylvania was your most  
14   recent acquisition, is that right?

15          A.    That's correct.

16          Q.    In Pennsylvania do you recall what  
17   percentage of Commonwealth's customers have access to  
18   broadband service today?

19          A.    The percentage of customers is at 100  
20   percent.  There was a program, a program that was  
21   developed by the GC and state government to encourage  
22   and provide increases in local rates up to a cap, in

1     exchange for an agreement that extends to 100 percent  
2     of the service territory.

3             Q.    And Commonwealth met that commitment so I  
4     believe, as you said, you have -- excuse me, 100  
5     percent of its customers have access to broadband  
6     service today?

7             A.    Yes.

8             Q.    Do you recall -- I am sorry, that's  
9     probably not a fair question. Would it be correct to  
10    say that at the end of 2008 Commonwealth had met that  
11    commitment, if you recall?

12            A.    I don't recall.

13            Q.    Do you recall any information about  
14    Commonwealth's service area in Pennsylvania? Is it  
15    urban or rural? Is it compact or spread out?

16            A.    I guess that's just a matter of  
17    perspective. I think probably if it were Verizon  
18    talking, they would probably say that it is very  
19    rural. From our perspective it has attributes of  
20    very rural northeast Pennsylvania, but it also serves  
21    in and around Wilkes-Barre which is a little bit more  
22    urban area.

1           Q.    So I guess is it fair to say it is kind of  
2   a mixed area.  There is suburban, there is rural;  
3   it's not like you are serving 300,000 access lines  
4   all in a center city or something?

5           A.    No, that is correct, although there is  
6   close to 100,000 lines that are CLEC lines where we  
7   serve in places like Harrisburg.

8           Q.    Well, I am sorry, I don't want to confuse  
9   things.  When I asked you about the broadband  
10  commitment for Commonwealth and broadband  
11  availability and we used the number of about 300,000  
12  access lines, all of that refers to the ILEC  
13  operation, correct?

14          A.    That is correct.

15          Q.    None of that has anything to do with the  
16  CLEC operation?

17          A.    Correct.

18          Q.    In your direct testimony at the bottom of  
19  page 12, actually the very last line on page 12 and  
20  over to the top of page 13, you say that in Illinois  
21  you have achieved -- excuse me, in your existing  
22  service area in Illinois you have achieved broadband



1     availability over 80 percent. Do you have a more  
2     current number for us?

3             A. I believe it is approximately 87 percent.

4             Q. And do you know as of what date?

5             A. That was as of Monday.

6             Q. Do you know the reasons why your broadband  
7     availability in Illinois is 87 percent but, you know,  
8     as we just discussed, in Pennsylvania your broadband  
9     availability is 100 percent?

10            A. Certainly, in my experience and not just in  
11     Illinois, there comes a point on your customer base  
12     where it becomes uneconomic purely looking at cash  
13     flows and pay back for expanding to certain  
14     customers. And it is usually surrounding areas that  
15     have lower densities or extremely long loop lines.  
16     And in Pennsylvania the state government, in exchange  
17     for being able to increase basic rates, extracted the  
18     concession to expand to 100 percent. So there was a  
19     quid pro quo in Pennsylvania.

20                    In Illinois we have -- and we continue  
21     to look for opportunities every month as either  
22     technology changes or as developments might change or

1 the situation of the customer base might change that  
2 would justify us expanding. At this point we  
3 continue to inch up, but we are at 87 percent.  
4 Probably the most we are going to see in the near  
5 term is another one to two percent, absent stimulus  
6 funding.

7 Q. Can you turn to page 15 in your direct  
8 testimony and on, it looks like, line 362 you refer  
9 to Section 13-517 of the Illinois statutes. Do you  
10 see that?

11 A. Yes.

12 Q. Are you generally familiar with that  
13 section? And again, just to be clear, I won't be  
14 asking you for a legal opinion or anything like that.

15 A. Generally, that focuses, of course, on  
16 broadband.

17 Q. And is it your understanding that the basic  
18 intention of that section was to make sure that local  
19 exchange carriers provided or made available  
20 broadband service to at least 80 percent of their  
21 customers by the end of 2005?

22 A. I thought it was advanced services, but I

1 agree with you in concept, yes.

2 Q. And, I am sorry, I think you are right. I  
3 think the statute does use the phrase "advanced  
4 services" which I believe was defined as 200 kilobits  
5 per second or faster, is that right?

6 A. That is correct.

7 Q. To the best of your knowledge has Frontier  
8 met that requirement?

9 A. Yes.

10 Q. And to the best of your knowledge has  
11 Verizon -- I mean has the Verizon service areas you  
12 are acquiring met that requirement?

13 A. My understanding is -- that is probably a  
14 better question for Verizon. But my understanding is  
15 they had when they were combined together, and that  
16 is why one of the conditions that we have agreed to  
17 on the South section is to bring that in compliance  
18 within 24 months. I guess there is some issue on  
19 that. But generally my understanding is that they  
20 were in compliance.

21 Q. All right. Do you know if for Verizon to  
22 meet that requirement, did they rely solely on

1 wireline services or did they also include wireless  
2 services?

3 MR. SAVILLE: I am going to object on  
4 foundation. I think Mr. McCarthy has indicated these  
5 questions would be better directed to Verizon in  
6 regard to their compliance with the statutory  
7 requirement.

8 MR. RUBIN: Your Honor, I am just asking the  
9 witness if he knows what he's acquiring. If he  
10 doesn't know, he doesn't know, and that's fine.

11 JUDGE TAPIA: Objection overruled.

12 A. My understanding is that in the South  
13 wireless makes up a significant portion of their  
14 ability to meet this statutory requirement. In the  
15 North it is not as important. In fact, my  
16 understanding is that they meet the statutory  
17 requirement without the wireless.

18 Q. Does Frontier have any intentions of  
19 providing a wireless product in Illinois?

20 A. We actually offer a wireless product in  
21 Carlinville, Illinois, today. So I can't say with  
22 any certainty that we wouldn't offer a wireless

1 broadband product in any of the areas. We just have  
2 not looked at that at this point.

3 Q. Is your commitment to bring Verizon South  
4 in Illinois up to the 80 percent requirement, will  
5 that be solely through a wireline product or don't  
6 you know yet?

7 A. No, that will be through a wireline  
8 product.

9 Q. On pages -- I guess it starts on page 16  
10 and goes for a couple of pages in your direct. You  
11 talk about the federal broadband stimulus program.  
12 Has Frontier applied for any federal stimulus funds  
13 for its existing Illinois service area?

14 A. No, we have not. The only area that we  
15 have applied for federal stimulus funds are West  
16 Virginia at this point. However, although I have  
17 been here in this hearing, as I understand it,  
18 revisions to the rules were promulgated in the last  
19 48 hours. I have not had a chance to look at that.  
20 That could very well lead us to apply for stimulus  
21 funds in Illinois.

22 Q. Okay. But at this point you have not done

1       so?

2               A.    No, we have not.

3               Q.    On page 34 of your direct there is a table  
4       towards the bottom of the page.  Does the last column  
5       in the table represent what Frontier and VSTO  
6       combined would have looked like if they had been  
7       combined for all of 2008?

8               A.    Yes.

9               Q.    Okay.  So this is not a projection of what  
10      the companies will look like at closing or at any  
11      time after closing, is that right?

12              A.    No, and I think it is just consistent with  
13      general disclosures.  For a publicly traded company  
14      we look at the last available publicly disclosed  
15      information at that point in time.  A complete year  
16      was 2008.

17              MS. SATTER:  Can I ask the witness to keep the  
18      voice up at the end of the answer because I am having  
19      a hard time at the very end.

20              A.    I apologize.  I will try.

21              Q.    Now, similarly the middle column Frontier  
22      Stand-alone, does that represent Frontier's actual

1 results for 2008?

2 A. I believe so.

3 Q. I am sorry, I guess with the exception of

4 net debt where I see an asterisk that says as of

5 March 31, 2009, right?

6 A. Yes.

7 Q. So, again, these are not projections of

8 what Frontier will look like at closing; they are

9 what Frontier actually looked like at the end of

10 2008?

11 A. Correct.

12 Q. Now, for example, for Frontier Stand-alone,

13 it shows revenues of \$2.25 billion for 2008, is that

14 right?

15 A. Yes.

16 Q. Have the books closed for 2009 at this

17 point?

18 A. Not to my knowledge, no.

19 Q. Do you expect to receive \$2.25 billion in

20 revenues for 2009?

21 A. No, I am sure it will be slightly below

22 that.

1           Q.   All right.  And do you still have the 10Q  
2   up there, IBEW Exhibit 10?

3           A.   I do.

4           Q.   Could you look at page 4 of that exhibit,  
5   and that shows that through the first nine months of  
6   2009 your revenues were about \$1.6 billion, is that  
7   right?

8           A.   Yes.

9           Q.   And that's -- that was about \$100 million  
10   less than your revenues for the first nine months of  
11   2008, is that accurate?

12          A.   I don't think it is quite 100, but.

13          Q.   Between 90 and 100 million dollars less?

14          A.   Yes.

15          Q.   Now, similarly, your table on page 34 of  
16   your testimony showed EBITDA of \$1.2 billion.  Before  
17   we go any further, EBITDA is Earnings Before Interest  
18   Taxes, Depreciation and Amortization, did I get that  
19   right?

20          A.   You certainly did get that right.

21          Q.   Thank you.  Sometimes I mess that up.  So  
22   that's good.



1                   Now, through September 30, 2009, your  
2 EBITDA was about \$822 million, wasn't it?

3           A.    I am sorry, I closed the page.   Which page?

4           Q.    I am sorry, I am looking at page 4 of IBEW  
5 Exhibit 10.   And just to be clear, what I did, and  
6 you will tell me if I am wrong, was just take your  
7 operating income and then add back into it  
8 depreciation and amortization and I got \$822 million.  
9 Does that look right to you?

10          A.    I don't have the calculation in front of  
11 me, but -- I just don't have it in front of me.   You  
12 could be right.

13          Q.    But that's how we would calculate EBITDA,  
14 isn't it?   We would take operating income and then  
15 add depreciation and amortization?

16          A.    General speaking, yes.

17          Q.    And again I am not trying to trick you.  
18 Whatever that calculation comes out is what it comes  
19 out?

20          A.    Yes.

21          Q.    And I definitely will not give you a  
22 calculator so.

1           A.    Thank you.

2           Q.    That's fine, thank you.  Do you know if  
3   that's more or less than the EBITDA for the first  
4   nine months of 2008?

5           A.    I think it is slightly less.

6           Q.    Would you accept, again subject to checking  
7   my calculations, that it is about \$90 million less?

8           MR. SAVILLE:  I am going to object on the  
9   subject of checking.  The witness has not performed  
10  the calculation and I am not sure that he is in a  
11  position to do that on the stand today.  So I am  
12  going to object to the question.

13          JUDGE TAPIA:  Mr. Rubin?

14          MR. RUBIN:  Your Honor, it is certainly my  
15  experience having a witness accept a calculation  
16  subject to check is fairly routine.  We have given  
17  him the source document.  I have told him what lines  
18  I am looking at.  I am just asking him to check my  
19  arithmetic which certainly can be done during a break  
20  and he can get back to us if I have made a  
21  mathematical error.

22          JUDGE TAPIA:  Objection, overruled.  You may

1 answer.

2 A. Again, I didn't do the math, subject to  
3 check. However, as you look at performance results  
4 year after year, they could be any number of things  
5 that could be one time in nature that would affect  
6 either the revenue or the EBITDA number. And without  
7 a full screening through that, I think it might seem  
8 like there is a little bit larger drop than would be  
9 on a normal recurring basis.

10 Q. But, in any case, you don't have any doubt  
11 that your results from 2009 in terms of revenues and  
12 earnings would be less than they were in 2008?

13 A. I think that's accurate. However, I also  
14 expect that some of the things that affected 2009  
15 will not reoccur in 2010 and the results would  
16 probably come back.

17 Q. Okay. But, again, you haven't provided  
18 either us or your investors with any prediction for  
19 what 2010 will look like, have you?

20 A. We have not provided any guidance to Wall  
21 Street, no.

22 Q. And you haven't provided anything to this

1 Commission either, have you?

2 A. I don't know if that was asked in  
3 interrogatories or not.

4 Q. Now, in the table on page 34 of your  
5 testimony, it shows net leverage for 2008 of 3.8  
6 times. Do you see that?

7 A. Yes.

8 Q. Do you know if that figure will be higher  
9 or lower in 2009?

10 A. I think at the end of 2009, due to the  
11 costs associated with the transaction, it will be  
12 slightly higher.

13 Q. And just so we are clear about what that  
14 term means, net leverage is your net debt which is  
15 shown in this table divided by EBITDA, is that  
16 correct?

17 A. Net debt meaning total debt minus cash on  
18 hand divided by EBITDA, yes.

19 Q. Now, for 2009 do you expect VSTO to earn  
20 this roughly \$1.9 billion that seems to be reflected  
21 in your -- I am sorry, let me back up. That question  
22 doesn't make any sense.

1                   If we look at the table on page 34 of  
2   your direct testimony, the Frontier pro forma column,  
3   I believe you said earlier that that represents a  
4   combination of Frontier and VSTO, correct?

5           A.    Correct.

6           Q.    So if we took the Frontier pro forma column  
7   and subtracted the Frontier stand-alone column, that  
8   would give us the VSTO numbers for 2008, correct?

9           A.    Correct.

10          Q.    And if we look at the EBITDA line where the  
11   combined EBITDA is \$3,125,000, Frontier stand-alone  
12   was \$1.2 billion, that would mean that VSTO had  
13   EBITDA of about \$1.9 billion, correct?

14          A.    I am just doing the math in my head.  
15   Sorry.

16                                   (Pause.)

17           Yes.

18          Q.    Do you expect VSTO to earn \$1.9 billion in  
19   2009?

20          A.    My understanding, and I know the finance  
21   team is looking at this very carefully, is that the  
22   performance of properties has had some plus and takes

1 but generally speaking we will earn the EBITDA, yes.

2 Q. Do you have a copy of Frontier Exhibit  
3 5.10, the proxy statement that was attached to  
4 your -- I think it was your rebuttal testimony?

5 A. I can get it. Yes, I have it.

6 Q. And I am looking at -- well, first, I know  
7 we had this problem in another state. I am looking  
8 at the page numbers at the bottom of the page. I  
9 guess we can call these the page numbers from the  
10 original document rather than from any printout. I  
11 am looking at page 146. And would you agree that  
12 this shows that for the first six months of 2009  
13 VSTO's EBITDA was \$799 million?

14 A. Sorry, could you point me to where you are?

15 Q. To do that, I have to get the document, so  
16 give me a minute.

17 (Pause.)

18 All right. On that page in the column that  
19 says Six Months Ended June 30, 2009, or what I was  
20 asking you, if VSTO had \$799 million of EBITDA, and  
21 to get that I just added the net income. Oh, excuse  
22 me, I added the operating income of \$411 million and

1 the depreciation and amortization of \$388 million.

2 And would you accept subject to check that that total  
3 is \$799 million?

4 A. Yes, and I apologize. I answered your  
5 question the wrong way. When you asked is it versus  
6 what's on Table 34, the answer would have been no.  
7 But from our perspective this is exactly what we had  
8 expected the performance, and that was my answer. I  
9 apologize.

10 Q. Okay. Well, let me back up then to make  
11 sure we have a written record that reflects your  
12 opinion. I had asked you if you expect VSTO's EBITDA  
13 to be -- actually, let me ask a new question which I  
14 think will clarify it.

15 We agreed that VSTO's EBITDA in 2008  
16 was approximately \$1.9 billion, correct?

17 A. Correct.

18 Q. Do you expect that figure to be lower for  
19 2009?

20 A. Yes.

21 Q. Do you have an expectation for how much  
22 lower it will be in 2009?

1           A.    I don't have the final figure with me, no.

2           Q.    Let's turn to your rebuttal testimony.  I  
3    would like to start on page 21, and here you are  
4    discussing the \$94 million systems maintenance fee  
5    that you have agreed to paperize for at least the  
6    first year after closing.  And you say that  
7    represents less than two dollars per line per month.  
8    Do you see that?

9           A.    Yes.

10          Q.    Does that include the cost of the, I guess  
11    it is, approximately 230 information technology  
12    employees that you are receiving from Verizon?

13          A.    No, those are in the VSTO financials,  
14    correct.

15          Q.    No, but I am saying when you say that, that  
16    cost of two dollars per line, that's just for the  
17    maintenance fee.  That does not include the cost of  
18    the employees that you will be receiving from Verizon  
19    in the IT operation, correct?

20          A.    Correct.

21          Q.    Do you have plans to retain all of those  
22    230 IT employees you are receiving from Verizon?



1           A.    Yes.

2           Q.    So you don't expect to cut any of those  
3   positions in order to achieve the synergy savings you  
4   have estimated?

5           A.    No, those are positions that will be  
6   operating the servers in Fort Wayne.

7           Q.    On page 28 of your rebuttal, it starts at  
8   the bottom of the page and carries over onto page 29,  
9   you testify that Frontier has not obtained a  
10   commitment for the more than \$3 billion in financing  
11   needed to close the deal.  Is that still true as of  
12   today?

13          A.    Yes, we have not secured a commitment.  
14   Instead, what we are doing is going to the market,  
15   hopefully in the first quarter, and looking to  
16   actually place somewhere between half and the full  
17   amount, and actually fund that amount and put it in  
18   an escrow account until close.  So we plan on having  
19   that done, there is a window once data is fresh from  
20   an SEC perspective at the end of first quarter, and  
21   that's our plan today.

22                   As we have gone on to the market, we

1 think that there is robust interest. As of a week  
2 ago, we thought the interest rate that would be  
3 available to us is approximately eight percent.

4 Q. So you expect to have at least a  
5 substantial portion of the financing in place by the  
6 end of March?

7 A. Potentially.

8 Q. At the bottom of page 31, again in your  
9 rebuttal, you state that you will file information  
10 about the financing within ten days after closing of  
11 the transaction. I guess I would like a little  
12 clarification on that. When you say closing of the  
13 transaction, do you mean the actual closing of the  
14 deal with Verizon or do you mean closing of the  
15 financing transaction?

16 A. I believe it was closing of the deal with  
17 Verizon. However, if we were successful in placing  
18 the debt in the first quarter into escrow, obviously  
19 we would make that information available to all  
20 commissions in this case.

21 Q. To the best of your understanding are you  
22 required to file those final financing agreements

1 with the U.S. Securities and Exchange Commission?

2 A. I am not sure I understand your question.

3 Q. I am asking if they will be publicly  
4 available documents soon after you sign them?

5 A. I think they would be administration  
6 documents, generally the normal documents associated  
7 with public debt, yes.

8 Q. So the fact that you have agreed to file  
9 them with this Commission is basically giving the  
10 Commission something they could get from the SEC's  
11 website, couldn't they?

12 A. Potentially.

13 Q. In your rebuttal on page 56 starting -- it  
14 looks like it is the sentence that starts at the end  
15 of line 1405, you state that Frontier has achieved --  
16 I am sorry, you already gave us that number for  
17 Illinois so we won't need that again.

18 On the next page, page 57, on line  
19 1438, you state Verizon has never announced plans to  
20 deploy BIOS in Illinois, do you see that?

21 A. I do.

22 Q. Has Verizon announced any plans one way or

1 the other for what it plans to do in Illinois?

2 A. It is my understanding that they had not  
3 made any announcement. My understanding is also that  
4 they have no plans to either expand landline  
5 broadband nor bring BIOS to Illinois.

6 Q. Okay. Well, let's be clear. Do you have  
7 any -- did you receive any specific information from  
8 Verizon one way or the other about what it would do  
9 -- well, what it planned to do in Illinois, if this  
10 transaction did not occur?

11 A. My discussions with the Verizon team has  
12 been that they have no plans on deploying further DSL  
13 in Illinois.

14 Q. Well, I guess I am just having trouble with  
15 the words that you are using. Is it that they have  
16 no plan or is it that they told you they will not be  
17 doing it?

18 A. And I am not trying to cut words. I am  
19 just explaining the way the conversations that I have  
20 had with the Verizon team have gone.

21 Q. And, all right, so you don't know if they  
22 have a plan or not?

1           MR. SAVILLE:  Objection, asked and answered.

2           MR. RUBIN:  Well, Your Honor, I am trying to  
3   get an understanding of what the words in the answer  
4   meant.  When someone says they have no plan to do  
5   something, that either means they don't have a plan  
6   one way or the other or it could mean they plan not  
7   to do it.  And I am trying to get some clarification  
8   on that.

9           MR. OATWAY:  Your Honor, if I may on behalf of  
10   Verizon, and this happened yesterday as well, I guess  
11   I am not sure I have standing to interpose an  
12   objection, but I really would suggest that these are  
13   questions better asked of Verizon witnesses.  It is  
14   not helpful for Mr. Rubin to develop a record that's  
15   unclear based on asking the wrong witness questions  
16   about another party.

17          JUDGE TAPIA:  Do you want to respond,  
18   Mr. Rubin, before I move?

19          MR. RUBIN:  Yes, Your Honor.  This witness has  
20   testified about his understanding of Verizon's plans  
21   for Illinois.  It is on page 57 of his rebuttal  
22   testimony.  And I am asking this witness what he

1     meant and what he relied on when he made that  
2     statement.

3             JUDGE TAPIA:   Objection overruled.   I believe  
4     that Mr. McCarthy is in the position of purchasing  
5     these companies.   He should know what was understood  
6     or what he understood to be.   So the objection is  
7     overruled.

8             THE WITNESS:   Could you just repeat the  
9     question now?

10            BY MR. RUBIN:

11            Q.   Yes, Mr. McCarthy, and I am really not  
12     trying to mince words.   I just don't understand the  
13     meaning of the words that you used.   Is it your  
14     understanding that Verizon does not have a broadband  
15     deployment plan for Illinois or is it your  
16     understanding that Verizon's plan is that there will  
17     be no further broadband deployment in Illinois?

18            A.   I would say both.   I have specifically  
19     asked for, and our team has asked for, any plan that  
20     they have and there was no plan.   So, therefore, we  
21     assume that there is no further plans of that, to  
22     invest in broadband in the state.

1           Q.   On page 62 of your rebuttal, starting on  
2   line 1532, you state that dividends should be  
3   measured against free cash flow, not against  
4   earnings, is that an accurate summary of your  
5   position?

6           A.   Yes.

7           Q.   Here are you talking about how Wall Street  
8   evaluates a company's payment of dividends?

9           A.   I am certainly -- I am referring to the way  
10   Wall Street and most financial savvy folks would view  
11   that you need to have cash flow to actually pay the  
12   dividends.

13          Q.   In your opinion are there any differences  
14   between how Wall Street or investors would evaluate a  
15   company's payment of dividends and how a utility  
16   commission should determine if a public utility's  
17   dividend policies are reasonable and in the public  
18   interest?

19          A.   I am not sure I understand the question.  
20   Could you just repeat it?

21          Q.   Well, I am asking if there are differences  
22   in your opinion for how investors might evaluate a

1 company's dividend policies and how a utility  
2 commission should evaluate a utility's dividend  
3 policies?

4 A. I think a commission should also look at  
5 the cash flow generated from the business. There  
6 could be any number of things that affect that  
7 income. And the real measure of whether a company  
8 can continue to fund the dividend is the cash flow  
9 from the business.

10 Q. So I think the answer to my question then  
11 was no, that in your opinion there is no difference  
12 between how Wall Street should evaluate the dividend  
13 policy and how a utility commission should evaluate  
14 it?

15 MR. SAVILLE: Objection, again misstates  
16 Mr. McCarthy's testimony.

17 MR. RUBIN: Well, a utility -- Your Honor, if I  
18 could ask the question again, I guess.

19 JUDGE TAPIA: Re-ask the question.

20 MR. RUBIN: I thought I understood the answer,  
21 but I guess not.

22 JUDGE TAPIA: The objection is sustained. You



1 can restate the question.

2 BY MR. RUBIN:

3 Q. Mr. McCarthy, in your opinion should there  
4 be a difference between how investors evaluate a  
5 company's dividend policy and how a utility  
6 commission evaluates a company's dividend policy? I  
7 think you explained your answer, but you never said  
8 whether your answer was, yes, there should be  
9 differences or, no, there should not be differences?

10 A. I guess my answer is no. I think the  
11 Commission should look at the cash flows from the  
12 business to determine whether or not it is a  
13 reasonable path for dividends.

14 Q. Over on page 64 of your rebuttal, looks  
15 like starting on line 1586 if my bifocals are working  
16 here, you state that Embarq had negative book equity  
17 at the time of its merger with CenturyTel but it  
18 still had an investment grade bond rating, is that  
19 right?

20 A. Yes.

21 Q. And there is a footnote at the end of that  
22 statement where you are directing us to Embarq's 10Q

1     for, I guess that would have been, for the first  
2     quarter of 2009, correct?

3             A.    Prior to the merger, yes.

4             Q.    Yes.  Do you recall if in that quarterly  
5     statement Embarq paid a dividend to common  
6     stockholders?

7             A.    I do not recall.

8             Q.    All right.  I would just like to show you a  
9     copy of that quarterly statement, see if that  
10    refreshes your recollection.

11                             (Whereupon a document was  
12                             provided to the witness.)

13             And I am looking at page 3.  I think that  
14     might help us.  I am sorry, again, the page numbers  
15     are the numbers that are part of the original  
16     document, not the printing numbers at the very bottom  
17     of the page.  Do you see the page I am referring to?

18             A.    I do, but I just need a minute to review  
19     it.

20             Q.    Sure.

21                             (Pause.)

22             A.    Okay.

1           Q.    Would you agree that for the first quarter  
2   of 2009 Embarq paid a dividend to its stockholders of  
3   \$100 million?

4           A.    Yes.

5           Q.    And for that quarter it had net income of  
6   \$174 million?

7           A.    Yes.

8           Q.    So Embarq was paying out, what, less than  
9   60 percent of its net income as a dividend in that  
10  quarter, is that right?

11          A.    I don't have a calculator but certainly  
12  less than net income.

13          Q.    Whatever that math turns out to be, 100  
14  over 174, it is less than a hundred percent, is that  
15  right?

16          A.    Yes.

17          Q.    And in contrast Frontier has been paying  
18  dividends that are greatly in excess of your net  
19  income, is that right?

20          A.    Certainly in excess of net income but well  
21  within the cash flows of the business.

22          Q.    Now, also on page 64 of your rebuttal you

1       refer to Qwest Communications. Do you see that?

2           A.    Which line? I am sorry.

3           Q.    It looks like it starts on line 1590?

4           A.    Yes.

5           Q.    And you talk about Qwest also having

6       negative equity and there the citation is to the 10Q

7       for the second quarter of 2009, correct?

8           A.    Yes.

9           Q.    Do you recall if Qwest paid a dividend to

10       common stockholders in that quarter?

11          A.    I don't have that in front of me.

12          Q.    All right. Again, I will be happy to

13       provide you with a copy to see if that refreshes your

14       recollection. And I think again we will be looking

15       at page 3 using the original page numbers again. And

16       just let me know when you have had a chance to review

17       that.

18                               (Whereupon a document was

19                               provided to the witness.)

20          A.    I have it, yes.

21          Q.    Would you agree that in that quarter that

22       you pointed us to, Qwest paid a dividend of \$274

1 million and it had net income of \$418 million?

2 A. Yes.

3 Q. And, again, without trying to do the  
4 precise math, I won't put you in that position again,  
5 but that's substantially less than 100 percent of  
6 earnings being paid out as dividend, is that right?

7 A. It is certainly less than 100 percent.

8 Q. Now, further down on page 64 of your  
9 rebuttal you refer to Comcast Corporation. Do you  
10 see that?

11 A. Yes, I do.

12 Q. And I am frankly a little confused here.  
13 You talk about Comcast's book value and goodwill and  
14 intangible assets and net tangible book value. I  
15 guess I have just a basic question. Do you recall if  
16 according to Comcast's financial report that you  
17 cite, did Comcast have negative book equity or  
18 positive book equity?

19 A. I believe it was, again, a negative net  
20 tangible book value, negative 37 billion.

21 Q. Okay. What is net tangible book value? Is  
22 that the same as common equity?

1           A.    My understanding is that it is a derivation  
2   of what the book value is to income, goodwill and  
3   other intangibles.

4           Q.    Well, let me again show you a copy of the  
5   Comcast report you cited to which was for the  
6   quarterly report for the second quarter of 2009,  
7   correct?

8           A.    Yes.

9           Q.    And here I think we are going to look at  
10  page 2.

11                               (Whereupon a document was  
12                               provided to the witness.)

13                   And this is Comcast's balance sheet, right?

14           A.    Yes, it is.

15           Q.    And if we look down at the bottom of the  
16  page, it says Total Equity of \$41,814,000.  Do you  
17  see that?

18           A.    I just need a minute to look at it.

19           Q.    Sure.  Just let me know when you are ready.

20                               (Pause.)

21           A.    I am ready, Mr. Rubin.

22           Q.    All right.  Would you agree with me that as

1 of June 30, 2009, the period you refer to in your  
2 rebuttal, Comcast had total equity of \$41.8 billion  
3 and that's a positive number, is that correct?

4 A. In looking at the balance sheet, that's  
5 correct. However, I think the testimony was that it  
6 reflected the addition of a goodwill amount and the  
7 addition of intangible assets. If you backed that  
8 out, that's how you would get that number.

9 Q. Now, why would you back out -- well, first  
10 let's look up at the asset section of Comcast's  
11 balance sheet. Is what you backed out franchise  
12 rights, goodwill and other intangible assets?

13 A. It was -- I'm sorry, My glasses for  
14 reading.

15 Q. I feel your pain.

16 A. It was the 14.928 of goodwill and the  
17 franchise rights as well.

18 Q. And also the other intangible assets, is  
19 that right?

20 A. Correct.

21 Q. Now, why would you subtract those three  
22 items from total equity?

1           A.    Because those -- in our opinion, as I  
2   discussed this with our financial team, those three  
3   categories would be backed out when you are trying to  
4   do an apples to apples comparison.

5           Q.    To do an apples to apples comparison to  
6   whom?

7           A.    To, I believe, the rebuttal discussion  
8   around the witness that was raising the negative  
9   equity balance issue.

10          Q.    That witness was IBEW's witness Mr. Barber,  
11   wasn't it?

12          A.    I believe so.

13          Q.    Did Mr. Barber mention Comcast in his  
14   testimony, do you recall?

15          A.    I don't believe he did.

16          Q.    Do you recall if he mentioned anything  
17   about goodwill and franchise rights and other  
18   intangible assets?

19          A.    I do not believe he talked about that.

20          Q.    Now, do you believe that investors -- well,  
21   what kind of business is Comcast in, do you know?

22          A.    My understanding is they are in a variety



1 of different businesses but principally cable  
2 television.

3 Q. Okay. Is it your understanding that  
4 franchise rights have a substantial value to a cable  
5 television operation?

6 A. I have not been in the cable television  
7 business to date.

8 Q. Do you have any reason to believe that  
9 investors would devalue franchise rights that appear  
10 on the balance sheet of a cable television company?

11 A. I don't know that answer.

12 Q. All right. Did you compare this net  
13 tangible book value for Comcast to the net tangible  
14 book value of Frontier?

15 A. Well, again, we don't have the same kind of  
16 cable franchise. I think that was why we were trying  
17 to back that out.

18 Q. But you have goodwill and intangible assets  
19 on your balance sheet, don't you?

20 A. We do, but I think the bigger issue is the  
21 franchise rights.

22 Q. Okay. Well, in looking at the calculation

1     you did for Comcast, you showed that these  
2     intangibles amounted to, what, about 70 or 75 billion  
3     dollars, compared to the \$40 billion of equity,  
4     right?

5             A.     Correct.

6             Q.     So about, what, 60 or 70 percent more  
7     intangibles than total equity, is that in the right  
8     ballpark?

9             A.     Subject to check. I don't have a  
10    calculator.

11            Q.     Okay. Well, let's look back at IBEW  
12    Exhibit 10 which is your quarterly report for the  
13    period ending September 30. And if we look at page  
14    2, that shows that at September 30, 2009, Frontier  
15    had total equity of \$428.8 million, correct?

16            A.     Could you just point me to --

17            Q.     I am sorry, right at the bottom of page 2.  
18    It says Total Equity and so I rounded. It is  
19    428,761,000. Do you see that?

20            A.     I do see that.

21            Q.     And if we look up under the Asset section  
22    of the balance sheet, it shows you had net goodwill

1 of \$2.6 billion, correct?

2 A. Correct.

3 Q. And you also had other intangibles of 200

4 -- well, a little over \$261 million, correct?

5 A. Correct.

6 Q. So Frontier had intangible assets of about

7 \$2.9 billion compared to total equity of \$429

8 million, right?

9 A. Right. And I think the point of that was

10 that Wall Street is not valuing or that is not of

11 considerable concern on Wall Street today.

12 Q. Well, who said that it was? Who is it you

13 are rebutting that talked about net tangible book

14 value?

15 A. I think we were rebutting Mr. Barber's

16 discussion about net equity.

17 Q. He was talking about shareholders equity,

18 wasn't he?

19 A. Negative net equity is what I believe he

20 was referring to.

21 Q. Yes, and I think we can agree that Comcast

22 has positive net equity, correct?

1           A.    Without those adjustments, yes.

2           Q.    And why would we make those adjustments for  
3 Comcast and not also make them for Frontier?

4           A.    My understanding was that as analysts were  
5 looking at cable companies, that they would make  
6 similar adjustments for considerations, given the  
7 fact that those franchise rights are what they are on  
8 the balance sheet.

9           Q.    Okay.  But you didn't just limit your  
10 adjustment to franchise rights; you also included  
11 goodwill, which as a percentage of equity Frontier  
12 has much more goodwill on your balance sheet than  
13 Comcast has on its balance sheet, correct?

14          A.    I don't have a calculator again, but I  
15 understand what you are saying, yes.

16          Q.    All right.  Do you still have that Comcast  
17 quarterly report in front of you?

18          A.    Yes.

19          Q.    And if you -- sorry.  If you look on page  
20 4, would you agree that Comcast paid a dividend in  
21 that quarter of \$375 million?

22          A.    Hold on a second.  Did you say page 4?

1           Q.    Yes, page 4 under Financing Activities it  
2   shows dividends paid, 375 million?

3           A.    Yes.

4           Q.    And over on page 3 of that Comcast report  
5   would you agree that Comcast had net income in that  
6   -- yeah, net income in that quarter of in excess of  
7   \$900 million?

8           A.    Yes.

9           Q.    Mr. McCarthy, in the research that was done  
10   for preparing your rebuttal testimony, did you come  
11   across any public companies that had negative  
12   shareholders equity that pay out more in dividends  
13   than they earn in net income?

14          A.    I did not look for that screen.

15          Q.    On page 65 of your rebuttal at lines 1621  
16   and I guess 1622, you state that Frontier has  
17   invested over \$1.1 billion in its network and  
18   operations since 2005. Do you see that?

19          A.    Yes.

20          Q.    Just to be clear, does that \$1.1 billion  
21   represent Frontier's total capital expenditures from  
22   2005 through 2008?

1           A.    Yes.

2           Q.    And during that same time period would I be  
3   correct that Frontier paid out \$1,316,000,000 in  
4   shareholder dividends?

5           A.    I do not have that figure in front of me.

6           Q.    Now, Mr. McCarthy, do you recall that I  
7   questioned you about this and many other topics in  
8   the Ohio proceeding?

9           A.    I do remember that.

10          Q.    And I would like to show you the, I guess,  
11   transcript from that proceeding to see if that  
12   refreshes you about this particular number.

13                               (Whereupon a document was  
14                               provided to the witness.)

15                And I am looking at pages 133 and 134 of  
16   that transcript.  And after you have had a chance to  
17   look at that, I will ask again if you would agree  
18   that, during that same four-year period, Frontier  
19   paid out shareholder dividends of \$1,316,000,000?

20                               (Pause.)

21           A.    I am sorry, I was reading.  Could you just  
22   repeat your question?

1           Q.    Yes, could you agree that between January  
2   1, 2005, and December 31, 2008, that Frontier paid  
3   out \$1,316,000,000 in shareholder dividends?  
4           A.    Yes.  
5           Q.    And would you also agree that during that  
6   same time period Frontier paid out \$835 million for  
7   stock repurchases?  
8           A.    Yeah, we completed \$835 million in stock  
9   repurchases.  
10          Q.    I am sorry. Was the answer yes?  
11          A.    I didn't think that we paid it out. We  
12   commenced and completed \$835 million of stock  
13   repurchases.  
14          Q.    Thank you. I was having a little trouble  
15   hearing. In your rebuttal testimony, page 69 --  
16          JUDGE TAPIA: Mr. McCarthy, if you can get the  
17   microphone closer.  
18          THE WITNESS: Sure.  
19          JUDGE TAPIA: Thank you.  
20          BY MR. RUBIN:  
21          Q.    Yeah, I am sorry, in the rebuttal on page  
22   69, at the top of the page you state that Verizon has

1     140,000 FIOS internet customers in the VSTO area, is  
2     that right?

3             A.    Correct.

4             Q.    Does that represent the number of customers  
5     that actually take the service from Verizon or is  
6     that the number of customers that have the service  
7     available to them?

8             A.    I believe that is the number that take the  
9     service from Verizon.

10            Q.    Okay.  Do you have an estimate of the  
11   number that have the service available to them?

12            A.    I believe the number probably is changing  
13   everyday, but it is -- can I look back at the  
14   transcript again?

15            Q.    Sure.  I did ask you about that in Ohio.  
16   It is on page 146 of that transcript.

17            A.    I believe the availability is 580,000.

18            Q.    Mr. McCarthy, filed with your rebuttal  
19   testimony was an Exhibit 5.1.  It's the Welcome to  
20   the New Frontier presentation.  And do you have a  
21   copy of that with you?

22            A.    Just one second while I get it out.



1 (Pause.)

2 I have it.

3 Q. And I am looking at page 18. In the middle  
4 of the page there is a, I guess, a block of  
5 information called Synergies. Do you see that?

6 A. Yes.

7 Q. The last line under Synergies says  
8 "increase purchasing power with vendors." Can you  
9 tell us what that refers to?

10 A. It referred to the fact that as we grow  
11 larger and as we are executing on our commitments to  
12 expand broadband, that we would increase our  
13 purchasing power with vendors that supply us with  
14 everything from network element components to long  
15 distance transit services.

16 Q. All right. Are you talking about  
17 increasing Frontier's purchasing power compared to  
18 Frontier's purchasing power today or are you talking  
19 about increasing Frontier's purchasing power compared  
20 with VSTO today?

21 A. It is referring to increased purchasing  
22 power from Frontier.

1           Q.    Okay.  So that does not necessarily mean  
2   that the VSTO areas will have greater purchasing  
3   power as part of Frontier than they have today as  
4   part of Verizon, is that correct?

5           A.    I can't answer that.  I don't know.

6           Q.    So you just -- that's not what you meant  
7   here?

8           A.    No.  What I meant here is that we would  
9   have additional leverage with our suppliers to get  
10  increased or improved pricing on the components that  
11  we will use to operate the business.  And when you  
12  look at the network elements that will be deployed,  
13  it could very well be that certain suppliers are  
14  supplying more components to Frontier in any given  
15  area just because of our focus versus Verizon.  
16  Verizon may have a focus on FIOS and have extremely  
17  good terms with an optical network element provider  
18  where we might have better terms and improving terms  
19  on more legacy Pots or DSL type equipment.

20          Q.    All right.  Mr. McCarthy, I guess I am a  
21  little confused here.  A minute ago you said you  
22  didn't know if the prices you would be getting would

1 be better or worse than what VSTO gets as part of  
2 Verizon, is that right? You just don't have that  
3 information?

4 A. I don't have that information.

5 Q. So what you just talked about was  
6 theoretical, wasn't it? You don't know what  
7 Verizon's prices are, so you have no way of knowing  
8 if your prices will be better or worse, correct?

9 A. I don't, although I do know that we plan to  
10 expand in these areas and Verizon may not have. So  
11 whether they had better prices on an Adtran TA5000  
12 that could have been deployed in Illinois is almost  
13 irrelevant because they are not deploying them.

14 Q. All right. But I am not asking at least  
15 right now about plans in Illinois. I am asking you  
16 about your estimated \$500 million in synergies. And  
17 part of that is increased purchasing power, and when  
18 you said that you are talking about increased  
19 purchasing power compared to Frontier's pricing  
20 today, correct?

21 A. That's correct.

22 Q. And that's not talking about increased

1 purchasing power within VSTO compared to what VSTO is  
2 paying today, correct?

3 A. That was referring to us, as we stated.

4 Q. Okay. Now, the next block of information  
5 on this page, page 18 of Exhibit 5.1, is called  
6 Non-recurring Integration Costs. Do you see that?

7 A. I do.

8 Q. And the middle bullet there is IT  
9 Development. I assume IT is Information Technology?

10 A. That is correct.

11 Q. Can you tell us what information technology  
12 needs to be developed as part of the integration of  
13 VSTO into Frontier?

14 A. From certainly properties outside of West  
15 Virginia, there is very little right now that has to  
16 be spent on that. The costs associated with the  
17 activity are really around the conversion that was  
18 happening in West Virginia.

19 Q. Do you know if any of that relates to  
20 Illinois and the other former GTE states?

21 A. My understanding is that it was principally  
22 West Virginia.

1           Q.   All right.  Now, the last bullet on that  
2   page is Severance.  I assume that's severance of  
3   employees?

4           A.   Correct.

5           Q.   Have you identified how many employees will  
6   lose their jobs as a result of the integration?

7           A.   No, we have not.

8           Q.   Have you identified what the severance  
9   costs will be for those or for those employees who do  
10   lose their jobs?

11          A.   I think there was just an estimate that was  
12   used as we put these together initially, and this was  
13   very early in the transaction, for some of the  
14   corporate synergies that might occur.  So I don't  
15   have a figure for you.

16          Q.   Do you know if any of those employees will  
17   be in Illinois?

18          A.   To my knowledge none of those employees  
19   will be in Illinois.

20          MR. RUBIN:  Thank you.  That's all I have for  
21   the witness, Your Honor.  I would move into evidence  
22   IBEW Exhibit 10.0.

1 JUDGE TAPIA: Mr. Saville, do you have any  
2 objection to IBEW Exhibit 10.0 to be admitted?

3 MR. SAVILLE: No, Your Honor.

4 JUDGE TAPIA: Hearing no objection, IBEW  
5 Exhibit 10.0 is admitted into evidence.

6 (Whereupon IBEW Exhibit 10.0 was  
7 admitted into evidence.)

8 MR. RUBIN: Thank you, Your Honor.

9 JUDGE TAPIA: Okay. Mr. Melnikoff, would you  
10 like to go next?

11 MR. MELNIKOFF: Whatever the AG would desire.

12 CROSS EXAMINATION

13 BY MR. MELNIKOFF:

14 Q. Good morning, Mr. McCarthy.

15 A. Good morning.

16 Q. Let me start by just getting some  
17 understanding of the document Frontier Corrected  
18 Exhibit 8.4. Do you have it in front of you?

19 A. I do.

20 Q. Condition 1(a), there is a clause in there  
21 five lines down, the paragraph, that I will read it,  
22 the first several words of it. "That is not

1     essentially or directly connected with the provision  
2     of non-competitive telecommunication service."

3           A.    I am sorry, Mr. Melnikoff.  Can I just --  
4     with so many exhibits up here, I just misplaced the  
5     first sheet.  So let me just get that out.

6           Q.    Let me know when you are ready.

7           A.    I am sorry, could you just repeat that  
8     question?

9           Q.    Yes, five lines down but into the  
10    paragraph, near the end of that line there is a  
11    clause that begins and goes to the next page or next  
12    line and it begins, "That is not essentially or  
13    directly connected with the provision of  
14    non-competitive telecommunications service."

15          A.    Okay.

16          Q.    Could you explain to me what is the meaning  
17    of that clause in connection to the condition?

18          A.    I am sorry.  I am not following your  
19    question.

20          Q.    That clause somehow affects, I presume,  
21    what the condition means?

22          A.    Right.

1           Q.    What is -- how does that impact the  
2   condition?

3           A.    The provision of non-competitive services,  
4   is that your question?

5           Q.    No, that clause, "That is not essentially  
6   or directly connected with the provision of  
7   non-competitive telecommunications service."  What is  
8   that trying to convey about the condition?  It must  
9   have a meaning in the context of the condition.

10          A.    I think it was purely referring to really  
11   the moneys, properties and resources that are used to  
12   provide basic non-competitive telecommunication  
13   services.  I don't think there was any hidden meaning  
14   in it.

15          Q.    Well, I just don't -- I am just trying to  
16   figure out what it means.  So in your mind it  
17   describes, and in the mind of Frontier, it describes  
18   moneys, property or resources?

19          A.    Yes, generally speaking it was cash and  
20   dividends from the subsidiary to the parent.

21          Q.    And what is not -- what is the meaning of  
22   non-competitive telecommunications service?



1           A.   Well, that's just what I would say.  It is  
2   generally basic services, local exchange services in  
3   the state.  There is the two categories of  
4   competitive and non-competitive services.

5           Q.   Does it include business rates or business  
6   service?

7           A.   I believe it does cover B1 services.  I am  
8   not sure it covers the high end services, whether  
9   that is Ethernet or special access circuits.  Maybe  
10   that's your point.  I don't think it covers that.

11          Q.   Does it include Centrex or PBX services?

12          A.   I just need to get -- I don't have a list  
13   of the non-competitive services in front of me right  
14   now.

15          Q.   If you would get that.

16          A.   I don't have that on my table.

17          MR. SAVILLE:  I object.  If Mr. Melnikoff has a  
18   list of the non-competitive services, he can provide  
19   that to the witness for review.  But to ask  
20   Mr. McCarthy --

21          MR. MELNIKOFF:  I didn't use the term.  I don't  
22   have the list.  I am asking the witness what his

1 understanding is and what that includes.

2 MR. SAVILLE: And I think the witness has  
3 answered his understanding. But I think what  
4 Mr. Melnikoff is in effect asking the witness to do  
5 is poll what could be a potentially hundred page  
6 tariff and go through and itemize each individual  
7 service. And if Mr. Melnikoff wants the witness to  
8 do that, he should produce that document and ask him  
9 questions versus asking the witness to generate that.

10 JUDGE TAPIA: Mr. Melnikoff, anything else?

11 MR. MELNIKOFF: No.

12 JUDGE TAPIA: Objection sustained.

13 BY MR. MELNIKOFF:

14 Q. Let me ask you, does it include 1FR?

15 A. Again, I don't have the list in front of  
16 me, Mr. Melnikoff.

17 Q. Does it include 1FB?

18 A. I don't have the list here in front of me.  
19 I would read them to you if I had them in front of  
20 me. I don't have it in front of me.

21 Q. And what exactly is the list?

22 A. Of the different -- generally the

1 non-competitive products that fall in that category  
2 in the competitive products list.

3 Q. Could counsel give him the list? Is it  
4 available in the room, Mr. McCarthy?

5 A. I don't know that it is available in the  
6 room.

7 JUDGE TAPIA: Mr. Saville, do you have an  
8 objection to producing that document, if you do have  
9 it here?

10 MR. SAVILLE: Your Honor, I am not sure that we  
11 have that list here. My understanding is that, and  
12 certainly Verizon can speak to this, what we are  
13 referring to is what's classified as competitive  
14 versus non-competitive in the Verizon North tariffs  
15 that are on file with the Commission. Similarly,  
16 there is a separate tariff for Verizon South and  
17 there are lists that identify what services fall into  
18 competitive versus the non-competitive category.

19 This goes to my objection before. As  
20 you are aware, these tariffs are quite enormous  
21 documents and certainly Mr. Melnikoff, if he wanted  
22 to pursue this line of questioning, could have

1 produced sections of that tariff and asked the  
2 witness versus us trying to go and generate an entire  
3 tariff to in effect complete his cross examination.

4 So our objection would be if he has  
5 questions, he should produce that list versus asking  
6 us to generate the complete tariff at this point in  
7 time.

8 MR. HARVEY: Your Honor, if I might just be  
9 heard on this.

10 JUDGE TAPIA: Mr. Harvey.

11 MR. HARVEY: The use of the term "competitive  
12 and non-competitive" is a term of art within the  
13 meaning of Section 13-502 of the Public Utilities Act  
14 and it has to do with the way utilities or telephone  
15 companies classify services. And as a general matter  
16 that's done through the tariffs and would be, I think  
17 -- I mean, I think if you wanted to you could  
18 probably take administrative notice of any tariffs  
19 that you felt were appropriate to do so and if it  
20 would shortcut this any, I am not sure. That would  
21 undoubtedly be -- and let the record reflect that I  
22 am spreading my arms pretty wide -- a lot of

1 documents.

2 JUDGE TAPIA: And Mr. Melnikoff -- now this  
3 document is very big. You can't print certain  
4 sections that Mr. Melnikoff needs for his cross, do  
5 you know, Mr. Harvey?

6 MR. HARVEY: I think they could be probably  
7 obtained from the Clerk's office. Whether that could  
8 be done in real time in the context of this hearing  
9 is something I am much less confident about.

10 MR. MELNIKOFF: I won't need them.

11 JUDGE TAPIA: That resolves everything then.  
12 The objection is sustained.

13 BY MR. MELNIKOFF:

14 Q. Let me rephrase the question. What is your  
15 understanding -- you have agreed to this, correct,  
16 this condition?

17 A. Yes.

18 Q. You have agreed to assuming without change  
19 the Verizon tariffs that are on file right now,  
20 correct?

21 A. Correct.

22 Q. What is your understanding? Is 1FR part of

1 the non-competitive telecommunication services in  
2 what will be your tariff?  
3 A. I'm sorry, Mr. Melnikoff, I just don't have  
4 that in front of me.  
5 Q. And you can't answer it right now?  
6 A. Right, no.  
7 Q. And the same thing with 1FB?  
8 A. Or Centrex or PBX or your other points, I  
9 just don't have it in front of me.  
10 Q. What about intrastate special access  
11 services?  
12 A. I don't have that in front of me.  
13 Q. Okay. So looking at Condition 1(a), does  
14 that mean that the only dividend restriction that  
15 will be imposed will be moneys, properties or other  
16 resources that are connected to non-competitive  
17 tariff service?  
18 MR. SAVILLE: Your Honor, I am going to object.  
19 I think he can ask the witness his understanding, but  
20 this condition has in fact been proposed by Staff.  
21 Staff's language, my understanding, is based on  
22 similar condition that they have imposed on other

1 ILEC transactions in the past. Staff proposed this  
2 language. You can ask the witness what his  
3 understanding is, but how the Commission Staff  
4 determines it, I think those would be better  
5 questions directed to Staff.

6 MR. MELNIKOFF: Well, Your Honor, the witness  
7 at the start of his testimony or the cross  
8 examination, he committed to abiding by this  
9 condition. I want to know what his understanding of  
10 this condition is.

11 MR. SAVILLE: Your Honor, I have no objection  
12 to asking him what his understanding is. That wasn't  
13 the question previously, so.

14 JUDGE TAPIA: All right. So you are  
15 withdrawing your objection?

16 MR. SAVILLE: If he corrects his question and  
17 asks the witness' understanding, I will withdraw my  
18 objection.

19 JUDGE TAPIA: Mr. Melnikoff, you can restate  
20 your question just like you did a few minute ago so  
21 that the witness is clear.

22

1 BY MR. MELNIKOFF:

2 Q. Let me restate the question. I am not  
3 asking you to tell me what the Staff's understanding  
4 is. What I am asking is what is your understanding  
5 what have you committed to in Condition 1?

6 A. What I have committed to is based on  
7 meeting the majority of the metrics, that if we did  
8 not meet the majority of the metrics that we would be  
9 prohibited from moving cash either from a cash  
10 movement or dividending of the Verizon North and  
11 South properties to the parent.

12 Q. Is there any limitation on the dividends  
13 that are restricted? In other words, are there  
14 certain dividends and moneys and property from those  
15 Verizon North and Verizon South exchanges that can be  
16 distributed to the parent?

17 A. You asked me what my understanding of this  
18 was. That's my understanding of what I agreed to.  
19 Based on meeting the majority -- or if I did not meet  
20 the majority of these metrics, that I would be  
21 prohibited from moving cash either by dividending or  
22 cash transfers from the Verizon North local exchange



1 company and South, to the parent. That's my  
2 understanding.

3 Q. Any moneys from those properties or from  
4 those Verizon North or Verizon South?

5 A. My understanding is based on the net income  
6 or the cash from the interexchange operations.

7 Q. From the what?

8 A. From the regulated entities in Illinois.

9 Q. And that's what you have committed to for  
10 the Company?

11 MR. SAVILLE: Objection. He's committed to the  
12 condition that's included in this document.

13 Q. Did you --

14 JUDGE TAPIA: I am not sure what your objection  
15 is, counsel.

16 MR. SAVILLE: He misstates the prior testimony.  
17 Mr. McCarthy has indicated through the testimony  
18 today that Frontier is committed to the condition  
19 that they identify in Corrected Exhibit 8.4, and  
20 Mr. Melnikoff tried to re-characterize that. The  
21 commitment was the conditions included in this  
22 document.

1           MR. MELNIKOFF: I am not trying to  
2 re-characterize the condition.

3           Q. Did you commit --

4           JUDGE TAPIA: One moment, Mr. Melnikoff. I  
5 will sustain the objection. You ask the question  
6 differently.

7           BY MR. MELNIKOFF:

8           Q. Did you commit the Company to the condition  
9 as you understand it?

10          A. My understanding is, as I just said, would  
11 be focus on non-competitive telecommunications  
12 service, as it says in the condition.

13          Q. And your answer is yes or no?

14          A. I am sorry, you would have to rephrase your  
15 question again.

16          Q. Did you commit to for the Company the  
17 Condition 1 as you understand it, as you just  
18 explained it?

19          MR. SAVILLE: Objection, again, this was asked  
20 and answered. The witness has indicated the Company  
21 is committed to Condition 1.

22          JUDGE TAPIA: Mr. Melnikoff, no response? I

1 believe the witness has answered the question.

2 Objection is sustained.

3 BY MR. MELNIKOFF:

4 Q. Does Condition 1 allow the Company, if it  
5 misses the metrics, to move broadband net income from  
6 Verizon North and Verizon South to the parent?

7 A. My understanding is that this is, as it  
8 says, moneys, property or resources that are not  
9 essentially directly connected with provision of  
10 non-competitive. My understanding is broadband is  
11 competitive service, so I don't think that's limited.

12 Q. So the answer would be yes, it can be  
13 distributed to the parent?

14 A. That's my reading.

15 Q. And that's what you committed the Company  
16 to?

17 MR. SAVILLE: Objection, asked and answered.  
18 He's committed to Condition Number 1. You already  
19 sustained that objection. What Mr. Melnikoff is  
20 trying to do is get an interpretation of this  
21 provision by this witness. Again, as I indicated  
22 previously, this is a condition that the Staff has

1 recommended. It's been included in a number of  
2 transactions. To the extent there is a question on  
3 the interpretation and how this is going to be  
4 implemented, a bunch here would communicate with  
5 Staff who proposed this condition.

6 MR. MELNIKOFF: The witness has committed the  
7 Company to something. He must know what he is  
8 committing the Company to, and that goes to what his  
9 understanding of what he is committing the Company.  
10 And that's all I am asking. Is to what are you  
11 committing the Company. Otherwise, it's an  
12 uninformed commitment.

13 JUDGE TAPIA: I will overrule the objection.  
14 Restate the question and, Mr. McCarthy, you can  
15 answer as best as you can what your understanding is.

16 BY MR. MELNIKOFF:

17 Q. Going back to your understanding of  
18 Condition 1, is it your understanding that net income  
19 or the moneys from competitive telecommunication --  
20 or competitive services such as broadband can, even  
21 if Frontier misses the metrics specified in Condition  
22 1(a), that those competitive net income moneys,

1 property, can be distributed to the parent?

2 A. My understanding is, as I have read this,  
3 that it was associated with non-competitive  
4 telecommunication services. Do I have a breakout of  
5 the revenue associated with the two? No, I don't  
6 have that here right now. So I don't know that I can  
7 quantify that for you at all.

8 Q. I am not asking you to quantify it. I am  
9 asking your understanding.

10 A. I just told you my understanding.

11 Q. Is it your understanding that those  
12 competitive revenues can be, even if you miss your  
13 metrics, can be distributed to the parent?

14 A. As I read the condition, I read it as the  
15 provision of non-competitive telecommunication  
16 services, the traditional voice and POTS services.

17 Q. So the answer is yes, is that correct, that  
18 they can be distributed to the parent?

19 A. For non-regulated, I believe so.

20 Q. And that's what you are committing the  
21 Company to?

22 MR. SAVILLE: Objection. He has stated several

1 times that we are committed to Condition 1. And  
2 asking the witness for a particular interpretation,  
3 he's answered this question several times. We are  
4 committed, Frontier is committed, to meet Condition 1  
5 as proposed by Staff.

6 MR. MELNIKOFF: He hasn't answered this  
7 question because his attorney keeps on objecting to  
8 it. All I am asking him is what is his informed  
9 opinion of what he is committing the Company to.

10 JUDGE TAPIA: I agree with Mr. Melnikoff.  
11 Objection overruled.

12 A. I am committing the Company to a dividend  
13 restriction associated with these not hitting the  
14 majority of these metrics. And I believe it is  
15 associated with non-competitive telecommunication  
16 services, but certainly it is -- this was meant to be  
17 compliant with similar conditions that have been  
18 imposed on others that have come through this  
19 process.

20 BY MR. MELNIKOFF:

21 Q. So there is no limitation on non-regulated  
22 services?

1           A.    If that was the limitation that was imposed  
2   on a party previously, then that's certainly what I  
3   would agree to at this point.  But my reading of it  
4   was it was non-competitive telecommunication  
5   services.

6           Q.    Let's go to another, now that we have got  
7   that behind us, let's go to another portion of  
8   Condition 1(a) and that will be found in the next  
9   paragraph on page 1.  My question -- if you would  
10  read that, particularly the sentence that begins "If  
11  Frontier meets a majority of the service quality  
12  standards."  You don't need to read it out loud, just  
13  -- which appears the next to the last, the full  
14  sentence, the last full sentence on that page.

15                               (Pause.)

16           A.    Yes.

17           Q.    Is it your understanding that once the  
18  restriction is lifted, you can then distribute  
19  payments, dividends, to the parent?

20           A.    Once the restriction is lifted.

21           Q.    Does that include previously foregone  
22  dividends that might not have been allowed to be

1 distributed during the period where you were not in  
2 compliance with the metrics?

3 A. Yes.

4 Q. Going to Condition 7 on the last page, this  
5 should be a very quick answer. It says, "Frontier  
6 shall cap all regulated competitive retail rates."  
7 What do you mean by -- I am sorry, "non-competitive  
8 retail rates." What is your understanding of  
9 non-competitive retail rates?

10 A. Is it all of the tariff rates on certainly  
11 the residential side of the equation. I don't know  
12 if that's your question.

13 Q. I am sorry. Say that again.

14 A. We would cap all regulated non-competitive  
15 retail rates. So if there are business rates that  
16 are in that category, they would fall under the cap  
17 as well.

18 Q. And that goes again to the Illinois  
19 Commerce Commission's tariffs?

20 A. Correct.

21 Q. We got through that one. One last question  
22 on this area. Do you know when this new broadband



1     commitment will be filed and distributed to the  
2     parties? Maybe counsel elucidate that point.

3             MR. SAVILLE: Your Honor, the commitment that  
4     Mr. McCarthy made today is on the record. Hence, I  
5     think it is part of the record at this point in time.

6             MR. MCCARTHY: Will it be a separate exhibit or  
7     are you just going to wait for the transcript to come  
8     out?

9             MR. SAVILLE: Our intention was that it was  
10    made on the record, it is part of the record. We can  
11    certainly file the supplemental exhibit that  
12    identifies this specific commitment if the Commission  
13    would so desire. But our intent was it has been on  
14    the record today so it is part of the proceeding.

15            JUDGE TAPIA: Mr. Melnikoff?

16            MR. MELNIKOFF: I would certainly like to see  
17    it in writing.

18            JUDGE TAPIA: Mr. Saville, would you?

19            MR. SAVILLE: We have no objection to doing  
20    that.

21            JUDGE TAPIA: All right. Then let the record  
22    reflect that Mr. Saville file that on the docket.

1 And what will we be entitling it for the record?

2 MR. SAVILLE: I think, Your Honor, we would  
3 include that as part of the Frontier Corrected  
4 Exhibit 8.4. I think probably just call it 8.4A.

5 JUDGE TAPIA: Okay. That will be identified as  
6 8.4.A?

7 MR. SAVILLE: Sure.

8 BY MR. MELNIKOFF: That makes it very helpful.  
9 Thank you.

10 Q. If you would go to page 7 of your direct  
11 testimony which is Joint Applicants' Exhibit Number  
12 1?

13 A. Yes.

14 Q. I am sorry, page 9, I am looking at your  
15 answer on 232, line 232.

16 A. Yes.

17 Q. Verizon North and New Communications of the  
18 Carolinas, once these groups become Frontier's, they  
19 would serve separate and distinct sets of exchanges  
20 in Illinois, is that correct?

21 A. That is correct.

22 Q. Will those new Frontier entities offer

1 services in each other's service areas?

2 A. I am not sure I understand the question.

3 Q. Will Frontier North offer any services to

4 customers, business or residential, that might be

5 located in Frontier's Verizon South territory?

6 A. No, Verizon North would be operating within

7 its certificated areas only.

8 Q. And the same thing concerning Frontier

9 South in offering services to customers that might be

10 located in Verizon North?

11 A. Correct.

12 Q. At the present time is it your

13 understanding that business end users in Frontier's

14 local exchange services have opportunity to obtain

15 local exchange services from competitors?

16 A. Yes, whether that's a cable company or

17 depending upon the size of the entity, it could be

18 AT&T or another large entity that might focus on the

19 Enterprise space.

20 Q. So the answer is yes?

21 A. Yes.

22 Q. At the present time do residential end

1 users in Frontier's local exchange services have an  
2 opportunity to obtain local exchange services from  
3 competitors?

4 A. In our area I would say yes.

5 Q. And basically what types are those  
6 competitors?

7 A. Generally, cable companies.

8 Q. Do you have a figure of what your market  
9 share is in those areas?

10 A. No, I don't have a figure of market share.

11 Q. Is there a material in-road in those  
12 territories that are being made by competitors?

13 A. I don't have the market share data.

14 Q. Do you expect that there will be more  
15 competition or less competition or the same  
16 competition level for local services to business  
17 customers after the transfer from Verizon as a result  
18 of this transaction in Illinois?

19 A. My expectation there would be more  
20 competitive, simply because Frontier will enter the  
21 market, into these new markets, and will be competing  
22 directly. Verizon Business, for instance, had a

1 large Enterprise account. Frontier would be able to  
2 compete for that immediately. So to me that would be  
3 an additional entry into that market.

4 Q. And for business is it your intent for  
5 Frontier to compete for business customers outside of  
6 Frontier's certificated areas?

7 A. No. We are not planning on any CLEC  
8 strategy at this point.

9 Q. So your answer is relying on Verizon coming  
10 into Frontier?

11 A. Well, I think Verizon Business operates  
12 across the country. And they, I am sure, will have  
13 some customers in our area and we will be able to  
14 compete. So day one we will be able to go and  
15 compete for those customers.

16 Q. What about for residential in Frontier's  
17 territory post-closing?

18 A. I don't think there will be any change. I  
19 think there will be a number of wireless providers,  
20 there will be ourselves and there will be cable  
21 companies.

22 Q. Page 16 of your direct testimony, I am

1 looking at line 382.

2 A. Yes.

3 Q. I believe that -- well, in response to, I

4 think, one of Mr. Rubin's questions, you agreed that

5 the availability of broadband in Illinois was

6 approximately 87 percent?

7 A. Correct.

8 Q. And that equates to what you are saying

9 right there, on line 382, correct?

10 A. No. That was -- I believe that was

11 referring to the more broad stated that Frontier has

12 been able to achieve over 90 percent broadband

13 development.

14 Q. Oh, in all your areas?

15 A. Correct. In Illinois it is approximately

16 87 percent.

17 Q. When you say broadband deployment, do you

18 mean that broadband is available, the availability of

19 broadband...

20 A. Well, I.

21 Q. ..to 90 percent?

22 A. I am sorry, I interrupted your question.

1           Q.    You say broadband, 90 percent broadband  
2   deployment.  Do you mean broadband availability?  
3           A.    Broadband availability to households.  
4           Q.    To households.  And how do you define  
5   broadband availability?  
6           A.    For us, generally, it is over a one megabit  
7   service.  
8           Q.    But what is the meaning of availability?  
9           A.    I am sorry.  It would be -- it would be in  
10   a wire center, an exchange boundary, that that  
11   percentage of customers would have the ability to  
12   contact us and have that service provisioned for  
13   them.  
14          Q.    And there would be no special construction  
15   to connect up?  
16          A.    That is correct.  
17          Q.    Is there a figure comparable to the 90  
18   percent or 87 percent in Illinois for business  
19   establishments?  
20          A.    No, I did not get that one.  I apologize.  
21          Q.    I am sorry?  
22          A.    I did not bring that number.  I should

1     have; I didn't.

2             Q.    Do you know if it is comparable to 90  
3     percent?

4             A.    I assume it is comparable to that, but I  
5     don't have that figure here.

6             Q.    Generally, in Illinois will that 87 percent  
7     figure immediately decrease upon the closing of the  
8     Verizon transaction?

9             A.    I don't think it would decrease in our  
10    service territory. I am not quite sure I understand.

11            Q.    No, in your total, in your total Illinois  
12    service areas?

13            A.    If you would just put the two  
14    availabilities together, is that your question?

15            Q.    It is.

16            A.    I assume, yes, the number would go up.

17            Q.    And how long will it take for you to get  
18    that to 87 percent?

19            A.    Well, we have made the commitment then that  
20    we would get to 85 percent in the new properties that  
21    we are acquiring by the end of 13.

22            Q.    Among households for which broadband is



1 available, what percentage -- this is residential  
2 now -- what percentage actually subscribed to  
3 broadband in Illinois?

4 A. Can you just point me to the page in the  
5 testimony?

6 Q. I am not looking at a page.

7 A. I am sorry. I did not bring that figure  
8 with me today.

9 Q. Do you have a figure for businesses, what  
10 percentage subscribed once it was available?

11 A. I do not have that figure.

12 Q. Does Frontier have a specific plan for  
13 increasing the actual subscription rate for broadband  
14 services among new residences once -- new residential  
15 users it is acquiring from Verizon in Illinois?

16 A. We don't have a plan at this point. I  
17 think once we finalize the network expansion, we  
18 would marry that up with, you know, introduction of  
19 that product to the market. It may be in conjunction  
20 with a special marketing program that might be going  
21 on at that point. So it will be a very tactical plan  
22 that's developed over the next 6 to 12 months.

1           Q.   And that plan will encompass from closing  
2   to -- or from when it is created in the next six  
3   months or so to the year 2013?

4           A.   It would probably focus primarily on the  
5   initial build out because that's where we will be  
6   enabling the households. But it would be an ongoing  
7   living document and a program that would go through  
8   that period. Obviously, it's where we are expanding  
9   the network.

10          Q.   Is there a budget? Is there some figure in  
11   mind that Verizon -- or, I am sorry, Frontier  
12   envisions that it will need in Illinois to reach 87  
13   percent or meet your commitment?

14          A.   Meet my commitment, we believe that it  
15   would be approximately \$50 million.

16          Q.   That's just for residential?

17          A.   No, that would be enabling the wire  
18   centers. So certainly business would benefit from  
19   that as well.

20          Q.   What is the basis of that estimate? And I  
21   am sorry, I shouldn't say estimate. The \$50 million?

22          A.   \$50 million is based on a model that we

1     have developed looking at every network element in  
2     the state and applying our intelligence from  
3     operating in the state today as well as information  
4     from Verizon and applying our design standards, and  
5     the result is \$50 million.

6           Q.     So even though there is not a plan, you  
7     know what it will cost you based on your model for  
8     Illinois?

9           A.     What I was answering your question and  
10    maybe I misunderstood your question, was to improve  
11    the penetration. We have developed what our  
12    expectations are to accomplish the 85 percent.  
13    That's the \$50 million. We don't have a plan today  
14    on how we will do marketing or go to market as we  
15    coordinate that with the Illinois expansion. That  
16    will be developed in the next 6 to 12 months as we  
17    get closer to close.

18          Q.     And if I heard you right, that \$50 million  
19    includes deployment to businesses as well, correct?

20          A.     Businesses would benefit from that as well,  
21    yes.

22          Q.     To the extent of 85 percent?



1 non-competitive services, and that non-competitive  
2 services is the same as we discussed earlier as found  
3 in the ICC tariffs?

4 A. Correct.

5 Q. And that would include some business  
6 services?

7 A. I'm sorry, could you say that again?

8 Q. That would include some basic business  
9 services?

10 A. I believe so.

11 Q. At page 45 of your surrebuttal, this is in  
12 the section -- the actual question is asked at the  
13 top of page 44. You are talking about Mr. King, the  
14 DoD/FEA's expert witness, you are talking about where  
15 he talks about Frontier's dividend policy, correct?

16 A. Correct.

17 Q. If we go to page -- I indicated page 45 in  
18 that section, line 970, the second set is on 970 to  
19 973, where you make specific criticisms of or you  
20 discuss Frontier's criticism, I guess is a fair word  
21 to use, about Mr. King's approach, correct?

22 A. Correct.

1           Q.    And his calculation of net recurring cash  
2   flow, correct?

3           A.    Correct.

4           Q.    And that comes from Mr. King's rebuttal  
5   testimony which is DoD Exhibit 2, page 4, correct?

6           A.    I don't have that in front of me.  If you  
7   have it, I could take a look at it.

8           MR. MELNIKOFF:  Yeah.  Does counsel have it for  
9   him?

10          THE WITNESS:  Your Honor, I was wondering if I  
11   could just have a five-minute break.

12          JUDGE TAPIA:  Oh, that's okay.  Why don't we  
13   take a ten-minute break?

14                               (Whereupon the hearing was in a  
15                               short recess.)

16          JUDGE TAPIA:  We are back on the record.  We  
17   are going to go to lunch, so we will be back at 1:00  
18   o'clock when we will proceed with Mr. Melnikoff's  
19   cross examination of this witness.

20                               (Whereupon the hearing was in  
21                               recess until 1:00 p.m.)  
22

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AFTERNOON SESSION

JUDGE TAPIA: We are back on the record. We have Mr. McCarthy the stand as a Frontier witness. Mr. Melnikoff is continuing his cross examination. He represents the U.S. Department of Justice.

Mr. Melnikoff, whenever you are ready.

BY MR. MELNIKOFF:

Q. Thank you, Judge. Good afternoon, Mr. McCarthy.

A. Good afternoon.

Q. We were at your surrebuttal, page 45, and you were just about to look at Mr. King's rebuttal testimony which is DoD/FEA Exhibit Number 2. And I believe we were headed towards page 4 of King's testimony, the top of the page, the chart, the table.

A. I have it in front of me, just refreshing my recollection.

Q. Going to page 45 of your surrebuttal, line 970 of that paragraph, that 970 to 972 where you are addressing the Mr. King's net recurring cash flow, you state, "Frontier does not agree with Mr. King's approach." Then you say, "as he double counts

1     certain items."    Could you tell me exactly what he is  
2     double counting?

3           A.    When I looked at it, it appears to us that  
4     the net cash from operations is a number right from  
5     the 10K.

6           Q.    I am sorry?

7           A.    If you start at the very top of his sheet,  
8     the first line is net cash from operations and so we  
9     were able to tie out the net cash from operations  
10    from the 10K.   However, when you look at the net cash  
11    from operations figure, it starts with net income and  
12    then adds back in a number of items to get to the  
13    figures that are represented on the page.   However,  
14    the net income figure already takes into account the  
15    interest payments and the income tax statements.   So  
16    that's why we thought he had double counted.

17          Q.    But you don't know for sure; you just think  
18    he did?

19          A.    No, I think that's exactly what he did.

20          Q.    Oh, okay.   I was just using your words.

21    Okay.   And then you say, "has other misstatements."

22    This is going back to page 45 of your surrebuttal,



1 line 972. So your criticism is double counts, which  
2 we just talked about, and has other misstatements?

3 A. My recollection was that there were one or  
4 two other errors around, I think it was, income tax  
5 payment and our point was that the interest payment  
6 in income tax should not be included or you should  
7 add that back into the net cash operations. The net  
8 recurring cash flow that would result would be  
9 significantly higher. And if you wanted to add in  
10 capital expenditures, you could do that to get it to  
11 a more realistic cash flow.

12 Q. And if those are correct, then a  
13 calculation which incorporated those adjustments that  
14 you just delineated would not -- you would believe to  
15 be more correct than what he has presented at page 4?

16 A. With the changes that I described, yes.

17 Q. Going to page 47 of your rebuttal, I mean  
18 surrebuttal, sorry, now, do you have Mr. King's  
19 attachment to his rebuttal testimony which is the  
20 eleven-page ranking of the S&P 500 by dividend yield?

21 A. I do not have that.

22 Q. Is that available?

1           MR. MURPHY: I don't know if we have got it  
2 handy. Yes, we have it.

3           Q. Thank you.

4           A. I am sorry, yes, I have that.

5           Q. Looking at the dividend yield, Attachment  
6 A, on page 47 of your surrebuttal you have some  
7 critique of that Attachment A, is that correct?

8           A. Correct.

9           Q. And at lines 1011 to 1012 you talk about  
10 the use of the estimated dividend that Mr. King  
11 utilized, correct?

12          A. Correct.

13          Q. And your criticism is that you -- and I am  
14 just paraphrasing now -- Frontier has already  
15 announced that it is cutting its dividend to 75 cents  
16 and the marketplace is expecting that. So the use of  
17 93.75 cents as an estimated dividend for the next  
18 year would distort the results?

19          A. What I was trying to say was that the  
20 market does know exactly what the dividend is that  
21 Frontier is committed to post this transaction and  
22 that's 75 cents. Certainly, it is true, depending

1     upon what point anyone assumes that the transaction  
2     would close and make an assumption that the dividend  
3     would be intact to a certain point, and then  
4     subsequently after that you could arrive at certainly  
5     what Mr. King used here. But I think the market is  
6     already anticipating us going to a 75 cent dividend.

7           Q.    If the attachment was recalculated with 75  
8     cents rather than the 93 and three-quarters cents,  
9     utilizing the then current price which was for  
10    December 3, so in other words replicating this table  
11    except for using your suggested estimated dividend of  
12    75 cents, do you know what the dividend yield for  
13    Frontier would be?

14           A.   Off of that price that you have on the  
15    table?

16           Q.    Yes.

17           A.    I don't have a calculator with me, but you  
18    could do the math fairly easily.

19           Q.    And would you accept subject to check that  
20    it would be 8.96 percent?

21           A.    Subject to check.

22           Q.    With an 8.96 percent do you know what

1 position in the S&P 500 dividend yield results  
2 Frontier would occupy?

3 A. It would appear that we would be behind  
4 Wind Stream and ahead of Qwest Communications.

5 Q. Number 2?

6 A. Yes.

7 Q. Now going to lines 122 to 124 of page 48 of  
8 your surrebuttal.

9 A. I'm sorry, and the lines again?

10 Q. 122 to 124.

11 A. 1022 to 1024?

12 Q. What did I say? 1022 to 1024, that  
13 sentence in there. It seems to me, and correct me if  
14 I am wrong, that what you are suggesting is that  
15 dividend yield is important as an industry criteria  
16 as opposed to a company-specific criteria?

17 A. I think what I was merely pointing out was  
18 that the telecom industry, it does have a very high  
19 proportion of the industry, as you have pointed out  
20 in this exhibit, to have significant dividends and  
21 that the investment community has expected that as  
22 part of the return commensurate with investing in the

1 equity.

2 Q. And then going back to page 47, lines 1018,  
3 the sentence in there evaluating AT&T as number 12  
4 and Verizon as number 16 in spite of their solid  
5 credit ratings, strong market position and wireless  
6 growth potential. Can I ask you on that sentence  
7 what is the meaning of the two words "in spite of"?  
8 It's three words. What are you trying to say, "in  
9 spite of their solid credit rating, strong market  
10 position and wireless growth potential"?

11 A. What I was trying to say was, and  
12 throughout this case there has been different points  
13 of view on our dividend policy and whether or not it  
14 was driven by us being in the current RLEC role that  
15 we are today and whether it is appropriate going  
16 forward, and I was merely pointing out that for a  
17 company as large as Verizon or AT&T, having an  
18 attractive dividend is important despite the fact  
19 that they were much larger, much more diversified and  
20 also had a much stronger credit rating.

21 Q. I am sorry?

22 A. And have a stronger credit rating.

1           Q.    That they also are, in spite of that, they  
2   also are expected by investors to have a high  
3   dividend?

4           A.    To have an appropriate dividend, yes.

5           Q.    And unlike AT&T and Verizon, Frontier is  
6   not participating, is it, in the financial rewards of  
7   potential growth of the wireless market?

8           A.    No, we are not in the wireless market at  
9   this point.  Although we are evaluating entry into  
10   that market using a different type of product.  But  
11   we are not in it at this point.

12          Q.    And as you indicated, Frontier does not  
13   have at this point as strong a debt rating and credit  
14   rating nor is not as large, it doesn't have the  
15   market position of AT&T?

16          A.    Yeah, I would say very few people have that  
17   envious position.

18          Q.    So would it be fair to say that in spite of  
19   Frontier not having as strong a credit rating, use  
20   your words, as solid a credit rating, as strong a  
21   market position and wireless growth potential like  
22   AT&T and Verizon, Frontier needs to compete with

1     those companies in the investment market and,  
2     therefore, is number 2 in the chart when you look at  
3     it on the date of, I believe it's, the 3rd of  
4     December 2009?

5           A.    I think the chart on the 3rd of December  
6     just shows the current price and the yields.  If, for  
7     instance, we received all regulatory approvals and we  
8     moved forward rapidly, I have no idea what the equity  
9     price would do and I don't know where we would fall  
10    in the stack ranking at that point because the yield  
11    is a function of how the stock price is performing at  
12    that point.

13          Q.    But at least as of December 3, 2009, it  
14    would be fair to make that statement?

15          A.    That our current stock price at, I believe  
16    it was, 8,037 cents, with the anticipated -- we tried  
17    to correct that -- but with the dividend that was  
18    assumed, it certainly does put us in that number 2  
19    spot.

20          MR. MELNIKOFF:  Thank you, Mr. McCarthy.  
21    That's all I have.

22          JUDGE TAPIA:  Thank you, Mr. Melnikoff.

1 Ms. Satter?

2 MS. SATTER: Thank you.

3 CROSS EXAMINATION

4 BY MS. SATTER:

5 Q. Good afternoon, Mr. McCarthy.

6 A. Good afternoon.

7 Q. I have a few questions for you. I would  
8 like to start with questions about a possible  
9 cutover, and let's first define what we mean by  
10 cutover. When you use that term, do you mean the  
11 transition from the Verizon legacy system to a  
12 Frontier system, operating system, that is?

13 A. I am just trying to understand the context  
14 of the question. So it's around operational support  
15 systems that we are making the cutover.

16 Q. Yes.

17 A. So the only cutover that we are happening  
18 at this point is in West Virginia.

19 Q. Okay, wait a minute. I am asking you if  
20 you can just define what we mean by cutover.

21 A. So what I mean by cutover is moving -- in  
22 this context is moving from one operational support



1 system to another.

2 Q. Okay. And you said that that's happening  
3 in West Virginia at the time of closing?

4 A. That's correct.

5 Q. And is that cutover from the same operating  
6 system that's being provided to the other former  
7 Verizon states?

8 A. No, if it was, we wouldn't be cutting over  
9 at this point. That's a separate system.

10 Q. So the challenges that you face in West  
11 Virginia would not necessarily be the same as the  
12 challenges you would face in other states?

13 A. Correct. We are not cutting over any other  
14 states at this point.

15 Q. Okay. Now, have you indicated that  
16 Frontier plans to cutover from Verizon's legacy  
17 system to Frontier's existing system in two to three  
18 years?

19 A. We at this point don't have a plan on the  
20 exact time frame. We absolutely do plan over a  
21 horizon of moving to a single platform. But that  
22 plan and the time frames are not completed at this

1 point.

2 Q. So it might be three years, it might be  
3 four years?

4 A. It could be five years. The agreement on  
5 the maintenance, software maintenance, was agreed to  
6 by the parties to give us that kind of runway to be  
7 able to either decide that we want to do the cutover,  
8 which I think we do but we haven't determined that  
9 yet, or decide that we really do love the systems, as  
10 Mr. Smith said when he was on the stand, and we  
11 decide that's the systems we want to stay with. So  
12 our plans are to close, to focus on service, to  
13 really get intimately familiar with them and decide  
14 whether or not we really want them and whether or not  
15 that would change our opinion on cutting over to our  
16 own systems over an extended period of time.

17 Q. Do you believe that that five-year  
18 maintenance period agreement provides you with the  
19 period of time you need to make that assessment?

20 A. I think it does.

21 Q. Do you know whether Frontier plans to  
22 stagger its cutovers in various states or whether it

1     would do a cutover for all the Spinco states at the  
2     same time?

3             A.    If we did do it, I believe our plan would  
4     absolutely be to do it on a separate basis.

5             Q.    State by state?

6             A.    State by state or a cluster of two or three  
7     states or one or two states.  It would just depend  
8     upon the plan.

9             Q.    Do you have any idea where Illinois would  
10    be in that order?

11            A.    I don't, simply because we have not really  
12    decided.  We are going to take the first year at a  
13    minimum to sit and use the systems and really, you  
14    know, figure out whether or not they are systems we  
15    want to stay on or do the cutover.

16            Q.    Given that Illinois has an existing  
17    Frontier service territory, if you were to go to a  
18    Frontier operating system, would that involve  
19    integrating the former Verizon territories with the  
20    currently existing Frontier territories in terms of  
21    operations?

22            A.    Well, first off, the existing territories

1 in Illinois operate on our legacy platform system.

2 Q. By legacy, your Frontier platform?

3 A. Correct. So we operate those hundred  
4 thousand access lines on that platform today. It is  
5 providing service. We don't see any need to change  
6 anything with that. Over time we absolutely look to  
7 integrate the properties more from an engineering  
8 perspective and network perspective, trying to take  
9 advantage of synergies in transport and the network  
10 around the state, but not necessarily -- I don't  
11 think there is a definite correlation between the OSS  
12 between the two properties.

13 Q. If you moved the former Verizon properties  
14 on to the Frontier OSS, then wouldn't you be using  
15 the same system for all of your Illinois properties  
16 at that point?

17 A. Yes, we would.

18 Q. So in that sense there is a correlation. I  
19 mean, the former Verizon territories would then be on  
20 the same system as the existing Frontier?

21 A. Correct. I meant that there would be no  
22 changes on the legacy platforms, our current markets.

1           Q.    And during that integration there could be  
2   effects on your existing territory, isn't that  
3   correct?  As you change, as you bring in several  
4   times the number of lines, several times the size of  
5   the operation, into the existing platform, isn't it  
6   true that that could affect the services available to  
7   the existing customers?

8           A.    I don't know that it would affect the  
9   services available to the existing customers.  But  
10   perhaps I don't recall the question.  I don't see us  
11   discontinuing any services or changing any services  
12   to existing customers.

13          Q.    Okay.  If there turn out to be problems  
14   with the cutovers as there were in the Hawaii and the  
15   New England situation, would all of the Frontier  
16   customers using that common OSS be affected  
17   potentially?

18          A.    Well, first off, this is not -- and just to  
19   make sure I say this now and I will try not to say it  
20   again -- it is not really Hawaii or FairPoint simply  
21   because it is not a new system.  So the system that  
22   we are talking about cutting over is the same system

1     that is being used to serve customers in Illinois  
2     today.

3                     Now, would we -- I think to your point  
4     before, if you were to engineer a plan to do a  
5     cutover in a staggered basis, the first part of any  
6     cutover is doing the extensive mapping of all the  
7     information from one system to another. We would do  
8     that in a state or a series of smaller states where  
9     we could actually get that down to the point where we  
10    don't anticipate any problems at all. And only after  
11    we have proven through the ability to make that  
12    cutover effectively, would we then start to move  
13    through some of the larger states.

14            Q.    So Illinois is one of your -- will be one  
15    of your larger states after this acquisition?

16            A.    Yes, it will.

17            Q.    Okay. And so then you would expect  
18    Illinois to go through a transition, assuming the  
19    Frontier decides to do that, they would go through  
20    the transition later in the cycle, after the smaller  
21    states were done?

22            A.    Again, that's maybe saying that from a plan

1 perspective I think that makes the most sense. But  
2 what time that would be in the cycle, I don't know at  
3 this point.

4 Q. In connection with the \$94 million for the  
5 maintenance of the software, I know Frontier has  
6 estimated that it will achieve \$500 million in  
7 synergies. Does that \$500 million incorporate the  
8 payment of that 94 million? In other words, is it a  
9 net of the 94 million?

10 A. No, the 94 million could be in and apart of  
11 the 94 million, could be in it because as you  
12 probably know, as you have looked at the software  
13 agreement, we can modify it. We can take the source  
14 code, we can do a number of things, they have given  
15 us a lot of flexibility, and we would achieve some of  
16 those savings by doing that. But there is certainly  
17 a number of other areas that contribute to the \$500  
18 million in savings.

19 Q. So there is an assumption that that \$94  
20 million will be whittled down as Frontier takes  
21 services in house?

22 A. Well, the assumption that if we moved our

1     own platforms off these over a period of time, then  
2     the \$94 million would disappear.

3             Q.    And is the \$500 million based on that  
4     assumption?

5             A.    No, I think that the \$500 million,  
6     certainly there is IT savings, whether it again is a  
7     modification to the software agreement so you get a  
8     portion of the savings, the 500 million also includes  
9     lease costs that are currently happening from Verizon  
10    being allocated to the properties, any number of  
11    different things, not just purely based upon the IT.

12            Q.    Okay.  So the \$500 million could be either  
13    with or without, there is no --

14            A.    Or a portion of.

15            Q.    Now, in your exhibit Frontier Corrected  
16    Exhibit 8.4, there is a Condition 3 related to OSS  
17    changes.  And in that condition, the last three  
18    lines, you talk about an Operations Support System  
19    Integration Plan.  And so is it Frontier's  
20    expectation that Frontier will create an OSS  
21    integration plan for Illinois?

22            A.    If we decide that we are going to cutover



1 to your point, we absolutely will. And as this  
2 condition lays out, we would submit it as well as our  
3 entire plan to the chief engineer of the Commission's  
4 telecommunication division for approval.

5 Q. Would you also inform the ICC if you chose  
6 to remain on the Verizon legacy OSS?

7 A. Oh, I would be happy to do that.

8 Q. Okay. Now, the items that are specified in  
9 this Condition 3, you believe are important, that is  
10 problems that occurred in the integration process and  
11 other jurisdictions and what has been done to avert  
12 those problems in Illinois, you agree those are  
13 important items to include in any plan that you  
14 submit to the ICC?

15 A. Yes. Just to be clear, we have done many  
16 different conversions over the last several years.  
17 We have not had problems with them. But we are  
18 agreeing completely with the conditions to submit  
19 this to the Commission here.

20 Q. And these issues would arise regardless of  
21 when that transition occurs, assuming, of course,  
22 that you make the decision to transition to Frontier

1     OSS, right?

2           A.    Yes, and I do believe that the decision --  
3    if we decide that we are not going to, we will make  
4    that decision and that will be pretty easy, I will be  
5    able to tell the Commission that.  If we decide to  
6    move forward with that, I think it will be in the  
7    first three years.

8           Q.    What if it is in the fourth year?

9           A.    I certainly would be open up in providing  
10   the plan.  I know that's what the condition says, but  
11   that is certainly the spirit of what we are agreeing  
12   to, is that we would provide a plan to the chief  
13   engineer.

14          Q.    So then would you agree that you would  
15   provide this information to the Commission even if it  
16   is beyond the three-year period that's specified in  
17   the condition?

18          A.    Well, again, I think the decision -- the  
19   reason we had gone with three years, accepting that,  
20   was that we think we will make the decisions -- I  
21   think it will be, quite frankly, a moot point.  We  
22   will make the decision during that time period.

1           Q.    So that three years was based on an  
2   assumption that the decision will be made in three  
3   years?

4           A.    Yes, but I think it is a pretty good  
5   assumption.

6           Q.    And if, as it turns out, the decision is  
7   made after three years, then there is -- you would  
8   still provide the information contained in the  
9   condition?

10          A.    Yes.

11          Q.    Okay.  So really the three-year limitation  
12   is not necessary?

13          A.    Well, again, the three years was really  
14   around what we thought the decision time frame would  
15   be.

16          Q.    Okay.  So at this point you would agree to  
17   provide the information in Condition 3 even after the  
18   three years, correct?

19          A.    Yes.  However, I am pretty sure that it  
20   will be within the three years.

21          Q.    And if Verizon -- excuse me, if Frontier  
22   decides to retain the Verizon system, you will inform

1 the Commission of that as well?

2 A. Yes, I will.

3 Q. Now, I wanted to ask you some questions  
4 about the broadband commitment that you have made  
5 today. When we say broadband, do we mean DSL, in  
6 other words, wireline internet access?

7 A. That's correct.

8 Q. Now, you are, of course, aware that Verizon  
9 currently uses its wireless system to provide high  
10 speed internet access to its customers, right?

11 A. I certainly know that that service is  
12 available to the customer base, yes.

13 Q. Do you know what portion of Verizon's  
14 households have only the wireless internet service  
15 available to them, in other words, that have wireless  
16 internet service but not DSL?

17 A. Could you say that one more time? I guess  
18 I am a little unsure.

19 Q. Do you know how many, what percentage, of  
20 the Verizon territory's households have wireless  
21 internet available to them but do not have DSL  
22 available to them from Verizon?

1           A.    Yeah, probably I think I can answer you,  
2    maybe just the inverse so I don't do the math  
3    incorrectly.  My understanding is that in meeting the  
4    statutory requirement in the North property, that  
5    they are at, I believe, 82 percent, 83 percent that  
6    have availability for the DSL and in the South it is  
7    significantly lower.  It is, I believe, under 40  
8    percent.

9           Q.    So you believe that more than 80 percent of  
10   the Verizon households have DSL available to them?

11           MR. SAVILLE:  Objection.

12           MS. SATTER:  I am asking the question.  I mean,  
13   I haven't restated his answer.  I am asking.

14           JUDGE TAPIA:  Is there an objection?

15           MR. SAVILLE:  I will withdraw my objection.

16           JUDGE TAPIA:  Thank you.

17           A.    My testimony and my understanding is that,  
18   at the last point I checked, it was approximately 60  
19   percent of the households, not necessarily the  
20   customers, which I guess is the statutory definition,  
21   but from a household perspective I believe it is 59.1  
22   percent.

1           Q.    And Frontier is planning to offer 85  
2   percent of the households in its service territory  
3   DSL?

4           A.    That's correct.  And that's exactly what --  
5   when I represented the 87 percent, that's apples to  
6   apples on that.  That's how we -- 87 percent is of  
7   households in our legacy properties.

8           Q.    Are you talking about in Frontier's current  
9   territory?

10          A.    Yes.

11          Q.    What about -- but in Verizon's current  
12   territory, the percentage of households that have DSL  
13   available is the 59 percent?

14          A.    59.1 percent.

15          Q.    So in order to get from 59.1 percent to 85  
16   percent, Frontier will have to make investments in  
17   the Illinois former Verizon areas?

18          A.    That's correct, that's the \$50 million that  
19   I referenced this morning.

20          Q.    Okay.  And you expect that \$50 million to  
21   be spent over the next three years?

22          A.    It was funded into 13, so probably the

1 first six months is planning and design and then it  
2 would go full steam from then, with the exception of  
3 the South. We will begin with the South right away,  
4 hit our 24-month note.

5 Q. So you will be developing a plan for  
6 Illinois...

7 A. Yes.

8 Q. ..to do that?

9 A. Yes.

10 Q. And will that plan be available to the  
11 Illinois Commerce Commission and to interested  
12 parties?

13 A. As we are developing a plan, I will be  
14 happy to share that with the Staff and the  
15 Commission.

16 Q. And would that plan enable the Staff or  
17 other parties to understand the capital needs and --  
18 the capital needs of the plan?

19 A. Yes.

20 Q. And its progress?

21 A. Yes.

22 Q. Now, look at the Condition 6 relating to

1 broadband deployment in your exhibit Frontier  
2 Corrected Exhibit 8.4. This condition does not  
3 address the plan that you and I just talked about for  
4 increasing service from 59 percent to 85 percent in  
5 the entire former Verizon territory, right?

6 A. This condition was very specific to Verizon  
7 South. So the commitment that I made this morning  
8 was in addition to this commitment.

9 Q. Okay. So to the extent that you file a  
10 plan when you create the plan, then that would inform  
11 the Commission of when they could expect the former  
12 Verizon South territory to reach the 80 percent and  
13 up?

14 A. Certainly I think it would be, just purely  
15 from a practical perspective and how it would be  
16 executed, you would see that percentage increase over  
17 the two-year period. It wouldn't be at the end of  
18 the two years. We would be investing and turning up  
19 network elements throughout the period.

20 Q. In connection with Condition 1 that you  
21 talked about this morning, is it your understanding  
22 that Condition 1 is not a dividend prohibition?



1           A.    I am not sure what you mean by prohibition.

2           Q.    If the Company does not meet all the  
3    service quality standards contained in this  
4    condition, will Frontier be prevented from issuing  
5    any dividends at all?

6           A.    Dividends from the subsidiary to the  
7    parent, is that what you mean?

8           Q.    Yes.

9           A.    My understanding, and I know there was a  
10   great deal of discussion, perhaps confusion this  
11   morning, was this applied to the jurisdictional level  
12   or the intraLATA services. I didn't say it very well  
13   this morning perhaps, but that's my understanding.  
14   Now, however, I understand that this is a condition  
15   that has been in many cases recently. So we are open  
16   to working with Staff to make sure that we are  
17   completely aligned on what or if there were any  
18   changes to that understanding that I just laid out.

19          Q.    So as of now, you haven't -- you have not  
20   discussed with Staff how to identify resources that  
21   are, quote, not essentially or directly connected  
22   with the provision of non-competitive

1 telecommunications service?

2 A. Right. I think that the way I just laid it  
3 out, meaning the commitment, is my understanding of  
4 it.

5 Q. Do you know if any of the other mergers  
6 with this condition resulted in the application of  
7 this restriction?

8 A. I do not know, but my understanding -- and  
9 we tried to verify this -- that this condition has  
10 not been invoked because people have met the  
11 conditions of the Commission order. But I don't know  
12 that.

13 Q. So money that is not essential to  
14 non-competitive service would include money that  
15 might be associated with DSL investment, right?

16 A. Correct.

17 Q. So if service quality problems led to the  
18 application of this condition, then isn't it true  
19 that the money that was set aside for DSL investment  
20 could be used for a dividend payment to the parent?

21 A. I am not sure I follow.

22 Q. If this condition were invoked...

1           A.    Yes.

2           Q.    ..because of service quality problems...

3           A.    Correct.

4           Q.    ..and Frontier Illinois issued a dividend

5   to its parent, could they take that from the money

6   that had been budgeted for DSL expansion?

7           A.    We don't -- obviously, when we develop the

8   capital plan, we are not thinking about whether or

9   not there is a dividend restriction because we don't

10   have any.  Moving any cash from one place to the

11   other, we think of a capital plan that is really

12   designed to execute our business strategy.  Our

13   business strategy is very aligned, I think, with the

14   people of Illinois on this and that is that we are

15   going to extend broadband.  So I don't see a linkage

16   between the two and I am just maybe missing the point

17   being made.

18          Q.    Okay.  So that you would expect that your

19   investment in DSL under the plan that you are going

20   to be creating would not be affected by Condition 1?

21          A.    My ability to execute my commitment, is

22   that what you are saying?

1 Q. Yeah.

2 A. No, I don't think so. First of all, I  
3 don't think we are going to miss the standards. I  
4 will say that. And two -- I hope not. And then two,  
5 we are committed to doing this because this is  
6 important to us in competing and garnering customers  
7 back. It is not purely on making a commitment just  
8 to put an 85 percent figure on paper. As far as  
9 regulatory, this is actually how we are going to  
10 execute and drive results of business.

11 Q. So the DSL investment in your mind is kind  
12 of protective in that it is going to go forward  
13 irrespective of the other operations or other  
14 conditions such as Condition 1?

15 A. Yeah, the broadband plan is going to be  
16 essential for us in competing in those areas where  
17 today Verizon does not cover those households. So we  
18 will be starting to do that investment right out of  
19 the gate as soon as we finish developing the plans  
20 and sharing it with the Commission and Staff.

21 Q. Do you have any idea how long it will take  
22 to prepare the plan?

1           A.   Probably the initial part of the plan will  
2   -- we are putting together the teams to be ready to  
3   do that, but it will probably take several months and  
4   that will highlight probably the first series of  
5   exchange in wire centers that we will enable, and  
6   then we will develop and fine tune the plan as we go  
7   forward. But you will see probably the initial plan  
8   associated with probably the first year of  
9   development.

10           Q.   So it will take a few months to prepare the  
11   initial plan that will then cover your first year of  
12   investment?

13           A.   Right. And as a practical matter, if we  
14   were to close at the end of the second quarter, which  
15   is what we have said, as you know, the weather in  
16   Illinois can prohibit construction in certain parts  
17   of the year, I anticipate that to serve a number of  
18   the wire centers will require us to upgrade some of  
19   the interoffice facilities, and as a result the  
20   winter may intervene and change the schedule a  
21   little. But that's the plan right now.

22           Q.   I wanted to ask you some questions about

1 Condition 7 related to retail pricing. Now, you  
2 agree the original Staff proposal was to freeze or  
3 cap competitive and non-competitive services, right?

4 A. Correct.

5 Q. And I don't know whether it was you  
6 individually but Frontier indicated that they wanted  
7 to remove the competitive services from that  
8 condition, right?

9 A. Correct.

10 Q. And by removing the competitive services  
11 from that condition, can you summarize for me which  
12 services you had in mind?

13 A. Well, primarily we were thinking higher end  
14 business services that there could be competition for  
15 broadband services, any of the services that the  
16 competitive marketplace is really driving what the  
17 price points would have been for those products.

18 Q. I am just wondering if you know which  
19 services those are?

20 A. I think those are certainly the higher end  
21 services, could be measuring interconnect, could be  
22 DS1, DS3, ATM services, PRIs, any number of the

1 higher end services as well as the broadband product.

2 Q. Do you know whether Frontier has any plans  
3 to change the classification of any services, any  
4 local exchange services?

5 A. No. At this point we have no plans. We  
6 are going to come in and adopt everything the way it  
7 is today.

8 Q. So you have no plans to change a  
9 classification from non-competitive to competitive?

10 A. Correct.

11 Q. Now, a service like voice mail, that is --  
12 do you know whether that would be subject to this  
13 cap?

14 A. Voice mail, I am not sure if it is  
15 considered a class of service. If it is, I think  
16 that would be under the cap.

17 Q. And what about DSL?

18 A. No.

19 Q. How about long distance?

20 A. I do not believe that long distance was  
21 under the cap.

22 Q. Okay. And do you know whether Verizon

1 offers a bundle of local service and DSL service?

2 A. I am sure they do in the areas where they  
3 actually have DSL.

4 Q. And if there were -- do you know whether  
5 they have any bundling discounts?

6 A. I am not privy to their bundled discounts  
7 as such.

8 Q. I am assuming that your people in Illinois,  
9 I would imagine, would investigate that as they take  
10 over the Illinois area, correct?

11 A. I am sure.

12 Q. And would it be your intention to retain  
13 those discounts if customers then go to Frontier for  
14 DSL?

15 A. We have no plans to change any of the  
16 prices on bundles as we take over.

17 Q. Do you have any plans to change the DSL  
18 price?

19 A. Not at this point we don't. And the  
20 market, because it is a competitive product many  
21 times sets what the price point will be, whether  
22 Frontier or Verizon likes it or not.



1           Q.    And the competitor for broadband will be  
2   cable companies?

3           A.    Generally speaking, yes.

4           Q.    Now, generally speaking, do you know  
5   whether the Frontier price for DSL is higher or lower  
6   than the Verizon price, at least in Illinois?

7           A.    I assume it is a little bit higher.

8           Q.    But you don't have plans to raise the DSL  
9   price in the new Frontier areas to the existing  
10   Frontier DSL price?

11          A.    Certainly not on the LEXY customers.  I  
12   think we do have plans to make special offers  
13   available.  For instance, we have made offers  
14   available where people could take PCs, get free PCs  
15   as part of our program.

16          Q.    And that might have a higher --

17          A.    That might have a higher price.

18          Q.    Is there a period of time that you can  
19   commit to not raising the prices for the DSL service  
20   in the former Verizon territories?

21          A.    Again, I don't think we feel that we need  
22   to commit to stabilizing that price because the

1 market is very competitive for it at this point.

2 Q. But if the cable price for internet access  
3 is higher than the Verizon price, then that wouldn't  
4 necessarily put downward pressure on your price,  
5 would it?

6 A. Could you say that one more time?

7 Q. I said if the cable price for internet  
8 access is higher than the Verizon price for internet  
9 access, that would not put downward pressure on the  
10 price, would it?

11 A. No, but it is -- as you look at internet  
12 service, it's been my experience that it is not only  
13 a price decision but it could be a speed perspective  
14 as well. So I think consumers make decisions based  
15 on that as well as customer service, reliability, any  
16 number of things.

17 Q. So notwithstanding the Condition 7 related  
18 to retail pricing, there would be opportunities for  
19 Frontier to increase prices to retail customers?

20 A. On the broadband products?

21 Q. On telecommunication services.

22 A. Well, I think the condition is that we

1     would cap all regulated non-competitive services, so  
2     we wouldn't do that from a practical matter. You  
3     would have to come in, if you wanted to change that,  
4     for a rate case which I don't have any plans on doing  
5     at this point. And on the non-competitive I think  
6     competition will dictate what the price is in the  
7     market.

8           Q.   And that can be up or down?

9           A.   It could be up or down.

10          Q.   Sitting here today you can't say?

11          A.   I wish it was more up than down, but  
12     unfortunately it is more down than up.

13          Q.   You said it is more down than up. What  
14     services are you expecting will be pressured  
15     downward?

16          A.   I think we see pressure on broadband prices  
17     across the country. So I would expect that  
18     competition will remain fierce in that market.

19          Q.   So that's what you are referring to there?

20          A.   That and I think also long distance is  
21     certainly a product, because of internet protocol,  
22     has a fairly declining price point market.

1           Q.   Now, in your testimony you talk about --  
2   you respond to intervenor's testimony about the risks  
3   contained in the S4 disclosure.  And specifically you  
4   say -- and this is in your rebuttal testimony on page  
5   54 but I will just tell you what it is, you can go  
6   there or not.

7           A.   Okay.

8           Q.   You say the risk factors, in quotes,  
9   "represents general recital of potential negative  
10  events and are intended to provide legal protection  
11  for investors and to the company whose securities are  
12  publicly traded.  Said disclosures are not intended  
13  to suggest that the risks are likely outcomes."  And  
14  you also say in your rebuttal testimony that  
15  investors consider these risks but approve the  
16  transaction anyway.

17                       So do you agree or is it true that  
18  there is a risk that the Frontier management will be  
19  required to devote a significant amount of time and  
20  attention to integrating the operations of Frontier's  
21  business and the Spinco business?

22          A.   Which part of the testimony should I look

1       for?

2               Q.    These are in your S4 and you had said in  
3   your testimony more generally that these risk factors  
4   are general recitals.  But I want to talk to you  
5   about a few of them in particular.

6               A.    Okay.  Let me just get the S4 out.

7               Q.    Okay.

8               A.    I think I am there.

9               Q.    Okay.  So one of the risk factors was that  
10   Frontier management will be required to devote a  
11   significant amount of time and attention to the  
12   process of integrating the operations of Frontier's  
13   business and the Spinco business.

14                        Would you agree that management will  
15   have to devote a significant amount of time and  
16   attention to that integration?

17               A.    Certainly.  We thought we had a full time  
18   team that is devoted around -- management will and is  
19   devoted to contemplating integration.  I don't think  
20   that that is a significant risk towards transaction  
21   at this point.  Because --

22               Q.    But it says --

1           A.    Okay, I am sorry.  I didn't mean to  
2   interrupt your question.

3           Q.    But it is a fact that they are going to be  
4   required to devote attention to the integration?

5           A.    Absolutely.  As all these risks that are  
6   highlighted, there is no probability that if any of  
7   these risks would cause an issue.  This is a general  
8   recital of risks.  And I would add that just about if  
9   you looked at any public document for either a tender  
10   offer, a 10K, anything where there is a merger  
11   happening, you would find the same exact or similar,  
12   I should say, recitals, whether it was AT&T talking  
13   about integrating SBC or it could have been Wind  
14   Stream talking about someone else.  These are general  
15   recitals to provide protection in a litigious  
16   society.

17          Q.    Then is it up to the reader to assess the  
18   significance of these disclosures?

19          A.    I think it is up to the reader to review  
20   them, understand that this is meant to be a spectrum  
21   of potential risks with no assignment of probability.  
22   And that, you know, I think our shareholders have

1     done that at this point and that was the comment  
2     about approving the transaction.

3             Q.   And as regulators, regulators are also in a  
4     position to review these risks and assess them, isn't  
5     that right?

6             A.   They certainly are.  As I said, I look at  
7     it in the context of the creation of a document,  
8     though.

9             Q.   And when they assess those risks, wouldn't  
10    they look at other situations that presented similar  
11    risks and determine -- in assessing the probability  
12    or the significance of the risk disclosed by  
13    Frontier?

14            A.   I would assume that they were -- to be able  
15    to -- I think what you are saying, to assess the  
16    probability of outcome, they would have to make a  
17    determination that whatever they were looking at was  
18    sufficiently identical that the probability of  
19    recurrence was high.  But I don't think that's the  
20    case with any of the recitals here.  I think they  
21    were meant just for what I described.

22            Q.   So are you suggesting that there is a

1 boilerplate?

2 A. No, I am suggesting that this is meant to  
3 be full disclosure of all the potential risks without  
4 assignment of any probability of outcome. It gives  
5 protection to investors as well as to the company.

6 Q. And the public has the right to assess  
7 these risks and decide what to do according to their  
8 assessment of the risk; the public or the regulatory  
9 commission, let's say a regulatory commission, has  
10 the right to assess these risks as well?

11 A. Certainly the regulatory commission can  
12 review any of the S4 documents.

13 Q. And they have the obligation to review the  
14 risks associated with this transaction, don't they?

15 A. Yes.

16 Q. Now, if these risks that are in the S4 turn  
17 into reality, investors might lose money if the value  
18 of their stock declines, right?

19 A. Potentially.

20 Q. Or the amount they receive in dividends  
21 might decline, is that right?

22 A. Potentially.



1           Q.   And if they choose to avoid the risks, then  
2 they can sell their stock, correct?

3           A.   Or not vote for approval of the  
4 transaction, which is what the document really was  
5 about.

6           Q.   Well, let's say the approval goes through.

7           A.   Which it did.

8           Q.   And let's say the transaction goes through,  
9 a shareholder can still sell the stock to avoid  
10 future risks at any point in time, isn't that right?

11          A.   Of course they can sell the stock.

12          Q.   But if problems like those in New England  
13 or Hawaii develop in Illinois, Illinois consumers and  
14 businesses would lose vital telecommunication  
15 services potentially, isn't that right?

16          A.   I don't know. I have not been intimately  
17 involved with whether a customer did not get a  
18 service in Hawaii or in one of the New England  
19 states. And I would just say that obviously you made  
20 this agreement, we just do not believe that this is  
21 not the same as the FairPoint transaction. The deal  
22 has been structured very differently to insure that

1 the risks that ultimately led to the problems,  
2 especially in New England, the development of a brand  
3 new operational support system, is not a risk that  
4 will be in this transaction. So I don't see it as  
5 the same risk level.

6 Q. But in any event, shareholders can avoid  
7 the risks by selling their stock, correct?

8 A. They could sell their stock.

9 Q. But Illinois residents can't avoid their  
10 risk by leaving Illinois, can they?

11 A. No, I assume they would not do that, that  
12 is correct.

13 Q. So they would have to, whatever problems  
14 arise, they would have to deal with it, whether  
15 through the regulatory process or otherwise?

16 A. If your hypothesis is that there was a  
17 problem at some point.

18 Q. I have one more set of questions I want to  
19 ask you. Do you remember in the S4 there are two,  
20 what are called, fairness opinions?

21 A. Yes.

22 Q. And is it true that Frontier engaged the

1     Evercore Group and Citi Group Local Markets to  
2     prepare a fairness letter, they each were to prepare  
3     a fairness letter for Frontier?

4             A.     For Frontier's board of directors, yes.

5             Q.     And is the purpose of a fairness letter or  
6     opinion to have a third party review the terms of the  
7     transaction to see whether the transaction is fair?

8             A.     And the value of the transaction is fair.

9             Q.     So it is whether the value of a transaction  
10    is fair?

11            A.     Well, the value takes into account the  
12    entire structure of the transaction.

13            Q.     And would you agree that both reports  
14    relied on public information without verifying the  
15    public information, that they accepted Frontier's  
16    statements about the transaction, that they accepted  
17    that Frontier's projections about the transaction  
18    were reasonable, that they accepted that Frontier's  
19    projections of synergies were reasonably attainable,  
20    and would you agree that they did not include any  
21    independent valuations or inspections of any of the  
22    properties?

1           MR. SAVILLE: I am going to object. It is a  
2   compound question with multiple parts.

3           BY MS. SATTER: We can go through them one by  
4   one.

5           Q. Would you agree that the reports relied on  
6   public information without verification?

7           MR. SAVILLE: I would also just object to the  
8   question. If Mr. McCarthy could maybe look at those  
9   particular fairness opinions.

10          Q. They are B, Attachment B.

11          A. To the proxy?

12          Q. Yes.

13          A. Let me just turn to it.

14          Q. Do you have it?

15          A. Yes.

16          Q. So do the opinion letters say they relied  
17   on public information?

18          A. It says they reviewed certain publicly  
19   available business and financial information.

20          Q. And does it go on that they did not verify  
21   that information?

22          A. Which letter are you looking at?

1           Q.    The Evercore.  I believe it is the third  
2 paragraph, second sentence.

3           A.    Somehow my sheets got --

4           Q.    Okay.  Now, let me ask you this, maybe this  
5 will short circuit it a little bit.  The S4 was  
6 attached to one of your pieces of testimony, is that  
7 right?

8           A.    Yes.

9           Q.    And the opinion letters were included in  
10 the S4 that you submitted to the record?

11          A.    That's correct.

12          Q.    Okay.  Then I think I don't need to go  
13 through it because the letters themselves are in the  
14 record.

15                   So what I wanted to ask you instead  
16 was, is it true that both Citi Group and Evercore  
17 made an oral presentation to the Frontier board on  
18 May 12, 2009, does that sound right?

19          A.    Yes.  The Citi Group and Evercore act as  
20 our financial advisors so, yes, they did do a  
21 fairness opinion which you have just discussed, but  
22 they were intimately involved in the transaction

1 analysis.

2 Q. And Citi Group's engagement began sometime  
3 in May of 2009, is that right? You could look at  
4 page 57 of the S4.

5 A. Okay, I am at 57.

6 Q. And do you recall when Citi Group's  
7 engagement began? If you look on page 57, Opinion of  
8 Citi Group, Global Market City was retained in May  
9 2009. So is that correct, that's when they were  
10 retained to provide you with the opinion letter?

11 A. If it is in the proxy, I am sure that's  
12 correct, May 2009.

13 Q. And do you remember that Frontier agreed to  
14 pay Citi Group \$18 million plus expenses for the  
15 opinion letter?

16 A. I was not involved in that negotiation, but  
17 I do realize that that was the amount.

18 Q. And that Citi Group received \$4 million  
19 upon delivery of the letter?

20 A. Yes.

21 Q. And that the balance would only be paid to  
22 Citi Group upon the successful completion of the

1 transaction?

2 A. Again, I was not involved in the  
3 negotiations. My understanding that's usual and  
4 customary in those kind of transactions.

5 Q. That a substantial portion of money is paid  
6 upon completion of the transaction, you are saying  
7 that's usual and customary?

8 A. That's my understanding.

9 Q. And do you also understand that at  
10 Frontier's discretion the total fee to Citi Group  
11 could be increased to 19 million?

12 A. Again, I was not involved in negotiations  
13 on that.

14 Q. So you don't know under what circumstances  
15 Citi Group would get an additional \$5 million?

16 A. I do not.

17 Q. Okay. And do you also understand that  
18 Evercore was also paid \$18 million plus expenses for  
19 the opinion letter?

20 A. Yes, we had two different financial  
21 advisors.

22 Q. Okay. And, again, like Citi Group, the

1     Evercore group would receive \$14 million upon  
2     successful completion of the transaction, correct?

3             A.     Correct.

4             Q.     And, again, at Frontier's discretion the  
5     Evercore fee could be increased by \$5 million to \$19  
6     million, right?

7             A.     Again, I was not involved in those  
8     negotiations, so.

9             Q.     And the report that these figures paid for  
10    was a four-page letter, is that right, from each  
11    company?

12            A.     The fairness letter, yes.

13            Q.     Four pages.    So --

14            A.     But I would just say that the analysis that  
15    they have to do to provide that four-page letter is  
16    fairly extensive, so.    And they obviously  
17    accomplished that with different evaluation metrics  
18    and how the business -- you know, whether it is just  
19    going to cash flow, whether there are comparables to  
20    market transactions, to arrive at fairness opinions  
21    that ultimately were those four pages.

22            Q.     And do you agree that each company has a



1 financial interest in the transaction going through  
2 based on the structure of the compensation?

3 A. Well, they certainly do. However, it is  
4 one fairness opinion, one transaction. Both entities  
5 are fairly large banking entities that really have  
6 many, many different activities going on at any  
7 single time. So I agree with you they do have an  
8 incentive for it to be able to go through, but I  
9 don't think that they would in anyway -- I don't know  
10 if you are trying to say that the letters were  
11 provided in a way that was not above board or -- I  
12 mean, certainly they would not stake the reputations  
13 of Citibank and Evercore on those two fairness  
14 studies.

15 Q. Because are you suggesting that to these  
16 companies \$18 million is not a significant amount of  
17 money?

18 A. No, I am sure it is significant, but not in  
19 the context of billions of dollars for a company.

20 Q. Now, these companies get paid when a  
21 transaction closes, right?

22 A. Correct.

1           Q.    So if the transaction -- if the deal  
2   ultimately turns out badly, like the FairPoint, let's  
3   say it does end in a bankruptcy situation, these  
4   bankers have already been paid, isn't that right?

5           A.    I would assume that they would have been  
6   paid.  I don't accept the premise that we are going  
7   to wind up in a bankruptcy, but.

8           Q.    I am not asking you to accept that premise.  
9   I understand that you are not going to accept that  
10   premise.  But that would not affect these bankers'  
11   compensation?

12          A.    Again, I was not involved in the  
13   negotiations.  There may be a provision that people  
14   can go to, but I have not been involved in it.

15          Q.    Do you know how much FairPoint paid for its  
16   fairness opinion?

17          A.    No, I don't.

18          Q.    Okay.  Now, the total amount that was paid  
19   to these bankers for the four-page letter was \$36  
20   million, right?

21          A.    In total.

22          Q.    Now, do you have any idea how many people

1     could receive DSL service for \$36 million in  
2     Illinois?

3             A.    Well, based on our model, I assume it would  
4     be somewhere in the order of 100,000 or so,  
5     potentially.

6             Q.    But this 36 million is not being paid out  
7     over time, is it?  It is being paid out at closing,  
8     correct?

9             A.    Correct, and we are not looking to recover  
10    any of those costs from customers in Illinois.

11            MS. SATTER:  Okay.  If I can just have a  
12   minute, I think I am done.

13                             (Pause.)

14                    Okay, thank you.

15            JUDGE TAPIA:  Thank you, Ms. Satter.

16   Mr. Saville, any redirect?

17            MR. SAVILLE:  Yes, Your Honor, but could I ask  
18   that we could take a short break first?

19            JUDGE TAPIA:  Oh, absolutely.  Ten minutes.

20                             (Whereupon the hearing was in a  
21                             short recess.)

22            JUDGE TAPIA:  We are back in session and

1 Mr. McCarthy is on the stand. This is Verizon --  
2 actually a Frontier witness. Handing it over to  
3 Mr. Saville for redirect.

4 MR. SAVILLE: Your Honor, we do not have any  
5 redirect.

6 JUDGE TAPIA: Okay. Thank you, Mr. Saville.  
7 Then are we ready to excuse Mr. McCarthy? Thank you,  
8 Mr. McCarthy.

9 (Witness excused.)

10 JUDGE TAPIA: I am handing it over to the Staff  
11 attorneys.

12 MR. HARVEY: Thank you, Your Honor. We will  
13 call Dr. Qin Liu first.

14 JUDGE TAPIA: Dr. Liu, if you could stand and  
15 hold up your right hand?

16 (Whereupon the witness was duly  
17 sworn by Judge Tapia.)

18 JUDGE TAPIA: Thank you. Please be seated.  
19 Whenever you are ready, Mr. Harvey.

20 MR. HARVEY: Thank you, Your Honor.

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DR. QIN LIU

called as a witness on behalf of Staff of the  
Illinois Commerce Commission, having been first duly  
sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. HARVEY:

Q. Dr. Liu, could you please state your name  
and spell it for the record.

A. Q-I-N L-I-U.

Q. And, Dr. Liu, could you also speak into the  
microphone?

A. Sorry.

Q. And could you state the manner in which you  
are employed?

A. I am employed by Illinois Commerce  
Commission, Telecommunications Division.

Q. Have you filed direct testimony in this  
proceeding?

A. Yes.

Q. Is your direct testimony a document that  
has been marked for identification as Staff Exhibit  
Number 4.0?

1           A.    Yes.

2           Q.    Does it consist of 13 pages of text in  
3 question and answer format?

4           A.    Yes.

5           Q.    Was it prepared by you or at your  
6 direction?

7           A.    Yes.

8           Q.    If I were to ask you the questions  
9 contained in Staff Exhibit Number 4.0, would your  
10 answers be the same as they were when you submitted  
11 it on October 20, 2009?

12          A.    Yes, except Staff has altered its  
13 recommendation regarding the wholesale agreement  
14 extension.

15          Q.    Would that be reflected in --

16          A.    In Staff response to Company data request.

17          Q.    Okay.  If I could move on to your rebuttal  
18 testimony, did you in fact submit rebuttal testimony  
19 in these proceedings?

20          A.    Yes.

21          Q.    And has that been marked for identification  
22 as Staff Exhibit 10.0?

1           A.    Yes.

2           Q.    And does that consist of 21 pages of text  
3   in question and answer format?

4           A.    Yes.

5           Q.    And was that prepared by you or at your  
6   direction?

7           A.    Yes.

8           Q.    If I were to ask you the questions  
9   contained in Staff Exhibit 10.0, would your answers  
10   be the same, subject, of course, to any modifications  
11   made to the Staff position by the Staff  
12   recommendations for conditions by those reflected in  
13   the Frontier Corrected Exhibit 8.4 and 8.4A?

14          A.    That is correct.

15          MR. HARVEY:   Thank you, Dr. Liu.   At this point  
16   I move for the admission of Staff exhibit -- oh, and  
17   one other question with respect to each of these  
18   exhibits.

19          Q.    These are both -- you have prepared and  
20   submitted each of these in both proprietary and  
21   public form, correct?

22          A.    Yes.

1           MR. HARVEY:   With that I move both Staff  
2   Exhibit 4.0 and Staff Exhibit 10.0 into evidence and  
3   tender Dr. Liu for cross.

4           JUDGE TAPIA:   Thank you.   Is there any  
5   objection to the admission of 4.0 and 10.0?  
6   Mr. Harvey, would that be ICC 4.0 or just 4.0?

7           MR. HARVEY:   ICC Staff Exhibit 4.0 and ICC  
8   Staff Exhibit 10.0.   I apologize, Your Honor.

9           JUDGE TAPIA:   Thank you.   Any objection to the  
10   admission of those exhibits?

11          MR. MURPHY:   No, Your Honor.

12          JUDGE TAPIA:   Hearing no objection, Staff  
13   Exhibit Staff ICC 4.0 and 10.0 is admitted into  
14   evidence.

15                               (Whereupon ICC Staff Exhibits  
16                               4.0 and 10.0 were admitted into  
17                               evidence.)

18          JUDGE TAPIA:   Before I ask the attorneys, I  
19   have a quick question.   Dr. Liu, what is your title,  
20   professional title, at the telecommunications  
21   division?

22          THE WITNESS:   Rate analyst.



1 JUDGE TAPIA: An analyst?

2 THE WITNESS: Yes.

3 JUDGE TAPIA: And what level?

4 THE WITNESS: Three.

5 JUDGE TAPIA: Three. Thank you very much.

6 Ms. Satter?

7 CROSS EXAMINATION

8 BY MS. SATTER:

9 Q. Thank you. Good afternoon, Dr. Liu. I  
10 only have questions about the advanced services  
11 portions of your testimony. Now, on page 7 of your  
12 direct testimony you provide the advanced service  
13 coverage for Verizon North and Verizon South, and you  
14 indicate that this information was provided in  
15 response to a Staff data request DR 2.01?

16 A. Yes.

17 Q. Now, don't ILECs like Verizon North and  
18 Verizon South report the availability of advanced  
19 services to the Commission on an annual basis?

20 A. I believe they do, but in 2008 it was  
21 provided on a combined basis, not for the two  
22 separate years.

1 Q. Okay. And did you look at that report?

2 A. No.

3 Q. Do you know whether that report would

4 indicate what portion of advanced services are

5 provided by DSL and what portion of advanced services

6 are provided over other technologies?

7 A. I do not specifically for 2008. But for

8 2007 I think the majority of the broadband services

9 is provided over DSL.

10 Q. For Verizon North and Verizon South?

11 A. Yes.

12 Q. Did you look at the reports to confirm

13 that?

14 A. I have a chief report of 2007 but not 2008.

15 Q. And did that reveal the percentage that was

16 provided by wireless versus the percentage that was

17 provided by DSL?

18 A. I did. A small percentage was provided by

19 mobile wireless. The majority of it was provided by

20 ADSL.

21 Q. Do you have the percentages?

22 A. No, I don't have -- didn't calculate that

1 percentage. I did not calculate that percentage.

2 Q. Do you have the number of lines?

3 A. I believe this should be confidential  
4 information. These are not --

5 Q. I am not asking you what they are. I am  
6 asking you did you have the number of lines provided  
7 by each of these technologies?

8 A. Yes.

9 Q. Did you compare the report, the 2007  
10 report, to the data request response that you  
11 received?

12 A. Comparing on what basis?

13 Q. To see whether they were consistent?

14 A. The data request response did not separate  
15 the technology. It gave a number for broadband  
16 deployment and did not provide a number of the high  
17 technologies.

18 Q. But did you check to see if the total was  
19 consistent?

20 A. No.

21 Q. Now, you asked Verizon to provide you with  
22 additional information in this rebuttal testimony,

1 right?

2 A. Yes, I asked them to provide, yes, for

3 what --

4 Q. What you wanted to know was whether --

5 A. Which one are you referring to?

6 Q. I am sorry?

7 A. Which one are you referring to?

8 Q. We can go through them one by one. You

9 asked Verizon North and South, you asked Verizon,

10 that's the party, to state whether the lines they

11 identified in the data request response met the

12 standards of Section 13-517 for advanced services,

13 right?

14 A. Yes.

15 Q. And then you also asked them to break it

16 out between Verizon North and Verizon South? No, you

17 asked how they calculated it.

18 A. Yes.

19 Q. Now, in response did they tell you what

20 percentage or what portion of the lines in the

21 Verizon North territory were provided over wireless

22 facilities?

1           A.    No.

2           Q.    Did they tell you that for Verizon South?

3           A.    No.

4           Q.    Did you ask for it?

5           A.    No.

6           Q.    And did you check the 2007 report that the

7   Commission had on file?

8           A.    I have the number.

9           Q.    Did you look at that in preparing your

10   testimony to determine --

11          A.    No.

12          Q.    Okay.  Now, you understand that Verizon is

13   not transferring its wireless services to Frontier,

14   correct?

15          A.    Yes.

16          Q.    And so you understand that Frontier will

17   not receive the facilities to provide wireless

18   internet service to its customers after closing?

19          A.    Yes.

20          Q.    So as a result do you understand that

21   Frontier will be able to provide advanced services to

22   fewer than 80 percent of its Verizon North customer

1 base?

2 A. I am sorry, would you repeat?

3 Q. Yeah. Do you understand that upon closing

4 Frontier will be able to offer advanced services to

5 fewer than 80 percent of its customers?

6 A. I am not sure that is the case.

7 Q. Do you know?

8 A. No, I am not sure that is the case.

9 Q. Do you know one way or the other?

10 A. I believe based on 2008 information that we

11 don't have information to make that assessment.

12 2007, even excluding wireless, Verizon North was

13 still at 80 percent.

14 Q. Now, are you aware that the Frontier

15 witness today indicated that DSL was available to 60

16 percent of the households in the Verizon territories?

17 A. Yes, but Section 13-517 refer to customer.

18 Customer include residential customer as well as

19 business customer. When you refer household, I

20 suppose you mean residential customer.

21 Q. So is it your understanding that the -- so

22 how do you understand that the over 80 percent figure

1 was arrived at?

2 A. I believe it includes residential as well  
3 as business customers, both.

4 Q. Okay. And how do you account for the about  
5 20 percent difference between the DSL availability  
6 that Frontier mentioned today and the over 80 percent  
7 that you are relying on?

8 A. I don't know, but my best guess is probably  
9 small business customers.

10 Q. Okay. Now, do you understand that Frontier  
11 has committed to making DSL available to 85 percent  
12 of the households in the former Verizon territory?

13 A. That's what I heard.

14 Q. Was this the first you heard of it, was  
15 today?

16 A. Eighty-five percent of households?

17 Q. Yes.

18 A. Yes.

19 Q. And do you also understand that Frontier  
20 will be developing a plan to reach that 85 percent  
21 goal?

22 A. I haven't seen any plan yet.

1           Q.    Would you like to see a plan when it is  
2   developed by Frontier?

3           A.    Yes.

4           Q.    And would it be acceptable to you for  
5   Frontier to provide that plan to you when it is  
6   developed?

7           A.    Yes.

8           Q.    And so you would accept that without  
9   waiting for the 85 percent goal to be reached, is  
10   that right?

11          A.    I am not sure I understand the question.  
12   The goal and -- the plan to achieve the goal?

13          Q.    Yes.  You would like to receive the plan  
14   before the end of the -- before the plan is carried  
15   out?

16          A.    Yes.

17          Q.    Okay.  And would you like to receive  
18   periodic updates?

19          A.    Yes.

20          Q.    Now, the Verizon South territory you  
21   requested Condition 6, that Frontier provide a report  
22   when it complies -- when it meets the goal, is that



1 right?

2 A. I believe so.

3 Q. And in that case you would not have  
4 information about how Frontier would reach that goal  
5 until the goal was met, isn't that right?

6 A. Yes, I believe so.

7 Q. So would you accept a filing prior to when  
8 the goal was met so that you can track the progress  
9 towards the goal?

10 A. I would not object to that.

11 Q. In developing the conditions in this, that  
12 you recommend in your testimony, both for the  
13 broadband and for the wholesale services, did Staff  
14 work as a group to determine the conditions?

15 A. What do you mean? The condition, whether  
16 there should be conditions?

17 Q. No, whether the Staff members coordinated  
18 in developing the conditions or whether it was the  
19 recommendation of an individual analyst.

20 MR. HARVEY: I think I will have to object to  
21 that. That goes to the Staff's litigation strategy  
22 and to matters discussed privately with counsel,

1 quite frankly, and I don't think that's properly  
2 something that can be explored.

3 JUDGE TAPIA: Any comment before I make my  
4 ruling? Objection, sustained.

5 BY MS. SATTER:

6 Q. And you would agree that the ultimate goal  
7 of your condition is to insure that in the Frontier  
8 service territory at least 80 percent of customers of  
9 Frontier have advanced services available to them  
10 from the ILEC?

11 A. Yes.

12 MR. HARVEY: Just to be clear, we are talking  
13 about the condition that has to do with this  
14 particular area, I believe Condition 6.

15 JUDGE TAPIA: Ms. Satter, is that correct?

16 MS. SATTER: Well, let me restate the question.

17 JUDGE TAPIA: Okay.

18 BY MS. SATTER:

19 Q. I think the question was, is it Staff's  
20 goal that at least 80 percent of the customers in the  
21 Frontier service territory have advanced services  
22 available to them from Frontier?

1           A.    You mean Frontier, the one they acquire it  
2    from Verizon or --

3           Q.    Yeah, for the territory that's the subject  
4    of this.

5           A.    The new Frontier existing operating  
6    companies are subject to Section 13-517, yes.

7           Q.    And so your goal is to insure that all of  
8    Frontier's customers, that 80 percent of their  
9    customers, have access to advanced services?

10          A.    Do you mean like in this proceeding or  
11   generally speaking.

12          Q.    In this proceeding?

13          A.    This proceeding, the information provided  
14   by Frontier indicate that existing operating  
15   companies have met the requirement.  So the focus is  
16   on Verizon South, yes.

17          Q.    And you did not focus on Verizon North  
18   because you didn't make a distinction between  
19   wireless internet and DSL?

20          A.    Sorry?  Could you repeat your question?

21          MS. SATTER:  Never mind.  Never mind.  Okay.  I  
22   have no further questions.

1 JUDGE TAPIA: I don't have anyone else on my  
2 list wishing to cross examine Dr. Liu. Is there  
3 anyone wishing to cross examine Dr. Liu? Okay, then  
4 we can excuse Dr. Liu.

5 MR. HARVEY: I think we have no redirect, Your  
6 Honor. Thank you very much, Dr. Liu.

7 JUDGE TAPIA: Thank you, Dr. Liu.

8 (Witness excused.)

9 JUDGE TAPIA: Would you like to call the next  
10 witness?

11 MR. HARVEY: We will call with the Court's  
12 leave Mr. Samuel S. McClerren. And just to be clear,  
13 Your Honor, apparently nobody has any questions for  
14 Ms. Phipps, so we will be submitting an affidavit in  
15 support of her testimony.

16 (Whereupon the witness was duly  
17 sworn by Judge Tapia.)

18 JUDGE TAPIA: Thank you, Mr. McClerren. Make  
19 yourself comfortable. Whenever you are ready,  
20 Mr. Harvey.

21

22

1 SAMUEL S. MCCLERREN

2 called as a witness on behalf of Staff of the  
3 Illinois Commerce Commission, having been first duly  
4 sworn, was examined and testified as follows:

5 DIRECT EXAMINATION

6 BY MR. HARVEY:

7 Q. Mr. McClerren, would you state your name,  
8 please, and spell it for the record.

9 A. Yes, my name is Samuel S. McClerren,  
10 spelled M-C-C-L-E-R-R-E-N.

11 Q. And would you please state your employer  
12 and the manner of your employment?

13 A. I am an Engineering Analyst IV in the  
14 Engineering Department, Telecom Engineering  
15 Department of the Telecommunications Division.

16 Q. Now, you submitted direct testimony in this  
17 proceeding, did you not?

18 A. I did, yes.

19 Q. And that has been marked as Staff Exhibit  
20 Number 1.0?

21 A. Correct.

22 Q. And did that consist of -- and your direct

1 testimony marked as ICC Staff Exhibit 1.0 consists of  
2 45 pages of text in question and answer format, does  
3 it not?

4 A. It does, yes.

5 Q. And there are Attachments 1, 2 and 3 to  
6 your direct testimony, are there not?

7 A. That is true, yes.

8 Q. And your direct testimony was prepared by  
9 you or at your direction?

10 A. It was, yes.

11 Q. And if I were to ask you the questions  
12 contained in Staff Exhibit Number 1.0, the answers  
13 would be identical to those that you gave at the time  
14 it was submitted, subject always to the conditions  
15 that were the subject of, I guess, agreement or  
16 acceptance by the Company in Frontier Corrected  
17 Exhibit Number 8.4, correct?

18 A. That would be correct, yes.

19 Q. Thank you, Mr. McClerren. Turning now to  
20 Staff Exhibit Number 7.0, that is your rebuttal  
21 testimony in this proceeding, is it not?

22 A. It is, yes.

1           Q.    And that rebuttal testimony consists of 15  
2   pages of text in question and answer format, does it  
3   not?

4           A.    It does, yes.

5           Q.    And attached to that is a revision to  
6   Attachment 2 to your direct testimony that you made  
7   to correct a calculation error pointed out by, I  
8   believe it was, Mr. Erhart, correct?

9           A.    An entry error, yes, that is true.

10          Q.    And that was prepared by you or at your  
11   direction?

12          A.    Yes.

13          Q.    And if I were to ask you those questions,  
14   your answers would be the same as they were on the  
15   date when you submitted this testimony for filing?

16          A.    They would be the same, yes.

17          MR. HARVEY:   With that I will move for the  
18   admission into evidence of Staff Exhibit 1.0 and 7.0  
19   and tender the witness for cross examination, Your  
20   Honor.

21          JUDGE TAPIA:   Thank you.   And, Mr. Harvey, just  
22   for clarification, and the Attachments 1, 2 and 3?

1           MR. HARVEY: 1, 2 and 3, and then to his  
2    rebuttal testimony is Revised Attachment 2 which I  
3    guess we should probably withdraw 2 to his direct and  
4    submit Revised 2 instead.

5           JUDGE TAPIA: Okay. And attached to 7.0.

6           MR. HARVEY: So I guess to save the Court time  
7    and trouble, we will not offer Attachment 2 to  
8    Mr. McClerren's direct into evidence, but we will  
9    instead offer Revised Attachment 2 to his rebuttal.

10          JUDGE TAPIA: All right. Is there any  
11   objection to the exhibits stated by Mr. Harvey?

12          MR. MURPHY: No, Your Honor.

13          JUDGE TAPIA: Thank you. Hearing no objection,  
14   the Direct Testimony of Samuel S. McClerren, ICC  
15   Staff Exhibit 1.0 and Attachments 1 and 3, and the  
16   Rebuttal Testimony of Samuel S. McClerren, ICC Staff  
17   Exhibit 7.0 and Revised Attachment 2 are admitted  
18   into evidence.

19                               (Whereupon ICC Staff Exhibit 1.0  
20                               with Attachments 1 and 3, and  
21                               ICC Staff Exhibit 7.0 with  
22                               Revised Attachment 2 were



1 admitted into evidence.)

2 Thank you, Mr. Harvey. Ms. Satter? Or  
3 would you like the Company to go first?

4 MR. MURPHY: I will go first, if that's okay.

5 JUDGE TAPIA: Okay. Mr. Murphy?

6 CROSS EXAMINATION

7 BY MR. MURPHY:

8 Q. Mr. McClerren, as you may know I am Joe  
9 Murphy. I am here representing Frontier  
10 Communications Corporation. I have some hopefully  
11 very short set of questions.

12 As I understand it, you are the case  
13 manager for this docket, is that true?

14 A. For Staff, yes, that is true.

15 Q. And is one of your duties as a case manager  
16 to make the overall recommendations on behalf of the  
17 Staff?

18 A. Yes.

19 Q. And you have the authority to do that?

20 A. Yes.

21 Q. Have you seen Frontier Corrected Exhibit  
22 8.4?

1           A.    I have, yes.

2           Q.    Do you have it there in front of you?

3           A.    I do.

4           Q.    And have you studied the changes that were  
5   made between that exhibit and the 8.4 that was  
6   originally attached to Mr. McCarthy's surrebuttal  
7   testimony?

8           A.    I have reviewed the changes, yes.

9           Q.    Can you confirm for me that what 8.4  
10   imposed as a set of conditions, that in the Staff's  
11   view if Conditions 1 through 7 in the reporting  
12   requirements, including the changes, were imposed by  
13   the Commission, then the Commission could make the  
14   findings required by 7-204(b) 1 through 7?

15          MS. SATTER:  I would object, that calls for a  
16   legal conclusion.

17          JUDGE TAPIA:  Mr. Murphy?

18          MR. MURPHY:  Your Honor, I am actually relying  
19   in the question I am raising here on the data  
20   response that Staff gave to the Company this last  
21   week.  So I am actually parroting Mr. McClerren's  
22   statement in that data response.  I am merely trying

1 to find out that it applies equally to the Frontier  
2 Corrected Exhibit 8.4.

3 JUDGE TAPIA: Objection overruled.

4 A. I will agree that this document as  
5 corrected would bring Staff to the point of agreeing  
6 with 7-204 acceptability, yes.

7 BY MR. MURPHY:

8 Q. And would you also agree that with Frontier  
9 Corrected Exhibit 8.4, the conditions listed there,  
10 that Staff would not object to the approval of the  
11 proposed transaction?

12 A. Yes.

13 Q. Were you here in the hearing room this  
14 morning when Mr. McCarthy made the additional  
15 commitments regarding the expansion of broadband in  
16 the Verizon territories here in Illinois?

17 A. Yes, I was.

18 Q. Does his commitment change your  
19 recommendation in any way?

20 A. It does not change it. It supports it, in  
21 my opinion, and I would purely, as a matter of format  
22 and I have not spoken to my attorneys about this, so

1 I apologize, but I would --

2 MR. HARVEY: Likely it is your own initiative.

3 Q. Let me give this a moment and let the panic  
4 come over him entirely. But I would suggest that  
5 Mr. McCarthy's commitments this morning, and I  
6 appreciate them, from a procedural review, monitoring  
7 and follow-up basis, if it were attached or brought  
8 into Condition 6 in this corrected exhibit, a year,  
9 two to three years from now, everyone would  
10 appreciate it, I guarantee you.

11 MR. MURPHY: And I will reiterate the Company's  
12 commitment, the undertaking to file as a late-filed  
13 exhibit, a document that will be entitled Frontier  
14 Corrected Exhibit 8.4.A that will include this  
15 morning's commitment regarding broadband probably as  
16 a new and separate commitment. Perhaps it will be 6A  
17 just so it fits into the flow of the order. But we  
18 will get that done promptly after the hearings.

19 JUDGE TAPIA: Thank you, Mr. Murphy. Let the  
20 record reflect that.

21 MR. MURPHY: I have no further cross for  
22 Mr. McClerren.

1 JUDGE TAPIA: Thank you, Mr. Murphy. Ms.  
2 Satter?

3 MS. SATTER: Thank you.

4 CROSS EXAMINATION

5 BY MS. SATTER:

6 Q. Good afternoon, Mr. McClerren.

7 A. Good afternoon.

8 Q. I wanted to ask you some questions about  
9 Condition 3.

10 A. All right.

11 Q. Now, that condition is for a period of  
12 three years. Is that how you understand it?

13 A. That was the way it was drafted, yes.

14 Q. And when you proposed this condition, did  
15 you expect Frontier to move off the Verizon system  
16 and cut over to another system within three years?

17 A. It is certainly a possibility, and then for  
18 that reason this condition came about.

19 Q. I am sorry?

20 A. For that reason this condition was  
21 proposed, yes.

22 Q. Okay. And do you understand that the

1     cutover might happen within three years, but it might  
2     also happen more than three years from now?

3             A.     That is a possibility, yes.

4             Q.     And so you don't really know when the  
5     cutover decision will be made, do you?

6             A.     No.

7             Q.     And you don't know when the cutover would  
8     actually be made?

9             A.     No, I don't.

10            Q.     And neither does Frontier, as far as you  
11     know, is that right?

12            A.     As far as I know.

13            Q.     So if the cutover occurs later than three  
14     years from the closing, you would agree that it would  
15     still be a major project?

16            A.     Definitely.

17            Q.     And there would be the same potential to  
18     disrupt service that would exist if the cutover  
19     occurred within three years?

20            A.     Yes.

21            Q.     So would you oppose removing the three-year  
22     limitation on when you would accept filings from the

1       Company after three years?

2               MR. MURPHY:   Excuse me, Your Honor.   I would  
3       like to interpose an objection here because to my ear  
4       this is becoming very much like friendly cross where  
5       the AG is inviting the Staff to improve their own  
6       requests.

7               MS. SATTER:   I wouldn't say it is friendly  
8       cross, but we have some problems with the three-year  
9       period.   We certainly do.

10              MR. MURPHY:   And they have made no comment  
11       about this in their testimony, and they are using  
12       Staff to try to get Staff to improve upon its own  
13       positions.

14              JUDGE TAPIA:   The objection is overruled.   You  
15       may continue.

16              BY MS. SATTER:

17              Q.   Let me ask the question one more time,  
18       though.   Would Staff accept the reports requested in  
19       Condition 3 after three years?

20              A.   We would certainly accept them.   I would  
21       tend to not want to require approval.   In my mind we  
22       have developed a set of -- an agreement, if you will.

1 I would not want to interrupt that. But to the  
2 extent the Company would like to offer us the  
3 information that we ask for here, I believe it would  
4 be very good for Staff to know what was happening.  
5 We could communicate then to the separate services to  
6 be prepared. Yes, yes, I would obviously like the  
7 information even at a later date.

8 Q. And so was the nature of the three years  
9 part of an agreement that --

10 A. It was a date that I originally developed  
11 and I have not changed it, quite simply, one way or  
12 the other, and I am uncomfortable changing it at this  
13 moment.

14 Q. But you agree that it would be beneficial  
15 to the Commission and to the public to get this  
16 information even at the expiration of the three-year  
17 period?

18 A. The information would always be useful.  
19 Any time Staff would know of major system upgrades,  
20 it would be very useful for us.

21 MS. SATTER: Thank you.

22 JUDGE TAPIA: I don't have anyone else on my



1 list for cross. Any redirect, Mr. Harvey?

2 MR. HARVEY: I don't believe we have any  
3 redirect, Your Honor.

4 JUDGE TAPIA: Okay. Then, Mr. McClerren, you  
5 are excused. Thank you very much.

6 (Witness excused.)

7 MR. HARVEY: Your Honor, there remains a  
8 housekeeping matter that applies most particularly to  
9 the Staff but to the other parties as well. We have  
10 not officially offered those, the testimony of those  
11 witnesses upon whose -- well, whose appearance has  
12 been waived and who are being supported by affidavit.  
13 We are certainly prepared to do that on the record at  
14 this time if that's your preference, and I suppose we  
15 ought to. I am just asking you whether that would be  
16 something you would like us to do.

17 JUDGE TAPIA: Yes, why don't we do that? You  
18 want to start for Staff? I am assuming the other  
19 parties have affidavits to tender.

20 MR. HARVEY: My colleague Ms. Von Qualen is  
21 going to do it.

22 MS. VON QUALEN: I at last have a chance to

1 speak on the record. Jan Von Qualen.

2 Staff moves for admission into  
3 evidence of ICC Staff Exhibit 3.0 and Attachments 1,  
4 2, 3, 4 and 5. This is the Direct Testimony of  
5 Rochelle Phipps which was filed on October 20, 2009.

6 Staff also moves for admission into  
7 evidence of ICC Staff Exhibit 9.0 which is the  
8 Rebuttal Testimony of Rochelle Phipps which was filed  
9 on e-Docket on December 14, 2009.

10 Staff is in the process of preparing  
11 an affidavit for Ms. Phipps which will be filed on  
12 e-Docket by the end of this week, and the affidavit  
13 will be identified as ICC Staff Exhibit 9.0.

14 JUDGE TAPIA: 9.0 is rebuttal.

15 MS. VON QUALEN: I am sorry, 9.1.

16 JUDGE TAPIA: Is there any objection to the  
17 admission of these exhibits that were stated by  
18 Ms. Von Qualen? Hearing no objection, the Direct  
19 Testimony of Rochelle Phipps identified as ICC Staff  
20 Exhibit Number 3.0 and Attachments 1, 2, 3, 4 and 5,  
21 also the Rebuttal Testimony of Rochelle Phipps  
22 identified as ICC Staff Exhibit Number 9.0, and the

1 affidavit that will be marked as ICC Staff Exhibit  
2 Number 9.1 are admitted into evidence.

3 (Whereupon ICC Staff Exhibit 3.0  
4 with Attachments 1, 2, 3, 4, 5  
5 and ICC Staff Exhibits 9.0 and  
6 9.1 were admitted into  
7 evidence.)

8 MS. VON QUALEN: Thank you. Staff also moves  
9 for admission into evidence the direct testimony of  
10 Mike Ostrander which has been identified as ICC Staff  
11 Exhibit 2.0 and was filed electronically on October  
12 20, 2009.

13 Staff moves for admission into  
14 evidence of the Rebuttal Testimony of Mike Ostrander  
15 which was identified as ICC Staff Exhibit 8.0 and was  
16 filed on e-Docket December 14, 2009.

17 And Staff moves for admission into  
18 evidence of the affidavit of Mr. Ostrander which was  
19 identified as ICC Staff Exhibit 8.1 and was filed on  
20 e-Docket on January 14, 2010.

21 JUDGE TAPIA: Thank you. Is there any  
22 objection to admission of those exhibits? Hearing no

1 objection, the Direct Testimony of Mike Ostrander  
2 identified as ICC Staff Exhibit Number 2.0, the  
3 Rebuttal Testimony of Mike Ostrander identified as  
4 ICC Staff Exhibit Number 8.0 and the affidavit  
5 identified as ICC Staff Exhibit Number 8.1 are  
6 admitted into evidence.

7 (Whereupon ICC Staff Exhibits  
8 2.0, 8.0 and 8.1 were admitted  
9 into evidence.)

10 MS. VON QUALEN: Staff also moves for admission  
11 into evidence the Direct Testimony of Stacy Ross  
12 which has been identified as ICC Staff Exhibit 6.0  
13 and was filed on e-Docket on October 20, 2009.

14 Staff moves for admission into  
15 evidence of the Rebuttal Testimony of Stacy Ross  
16 which was identified on e-Docket as ICC Staff Exhibit  
17 12.0 and was filed on December 14, 2009.

18 And Staff moves for the admission of  
19 the affidavit of Ms. Ross which was identified as ICC  
20 Staff Exhibit 12.1 and was filed on e-Docket on  
21 January 14, 2010.

22 JUDGE TAPIA: Is there any objection to the

1 admission of those exhibits? Hearing no objection,  
2 the Direct Testimony of Stacy Ross identified as ICC  
3 Staff Exhibit Number 6.0, the Rebuttal Testimony of  
4 Stacy Ross identified as ICC Staff Exhibit Number  
5 12.0 and the affidavit identified as ICC Staff  
6 Exhibit Number 12.1 are admitted into evidence.

7 (Whereupon ICC Staff Exhibits  
8 6.0, 12.0 and 12.1 were admitted  
9 into evidence.)

10 MS. VON QUALEN: Thank you, Your Honor.

11 JUDGE TAPIA: Counselor, do you have --

12 MS. VON QUALEN: One more. Staff moves for the  
13 admission into evidence of Karen Y. Chang, the Direct  
14 Testimony of Karen Y. Chang identified as ICC Staff  
15 Exhibit 5.0. That was filed on e-Docket on October  
16 20, 2009.

17 Staff moves for the admission into  
18 evidence of the Rebuttal Testimony of Karen Y. Chang  
19 which was identified as ICC Staff Exhibit 11.0 filed  
20 on e-Docket December 14, 2009.

21 And Staff moves for admission into  
22 evidence of ICC Staff Exhibit 11.1 which is the

1 affidavit of Ms. Chang which was filed on e-Docket on  
2 January 13, 2010.

3 JUDGE TAPIA: Thank you. Is there any  
4 objection to the admission of those exhibits?  
5 Hearing no objection, the Direct Testimony of Karen  
6 Y. Chang identified as ICC Staff Exhibit Number 5.0,  
7 the Rebuttal Testimony of Karen Y. Chang identified  
8 as ICC Staff Exhibit Number 11.0 and the affidavit  
9 identified as ICC Staff Exhibit Number 11.1 are  
10 admitted into evidence.

11 (Whereupon ICC Staff Exhibits  
12 5.0, 11.0 and 11.1 were admitted  
13 into evidence.)

14 MS. VON QUALEN: Thank you.

15 MR. HARVEY: Thank you, Your Honor.

16 JUDGE TAPIA: Who wants to go next?

17 Mr. Murphy?

18 MR. MURPHY: Your Honor, Frontier  
19 Communications Corporation would move for the  
20 admission of Frontier Exhibit 3.0 which is titled the  
21 Rebuttal Testimony of Kim L. Czak which is spelled  
22 C-Z-A-K, and in support of the admission of that

1 evidence, Frontier would propose to admit Frontier  
2 Exhibit 3.1 which is a declaration of Kim L. Czak.  
3 The rebuttal testimony was filed on November 13, the  
4 declaration was filed on January 15, each on the  
5 Commission's e-Docket system.

6 JUDGE TAPIA: Thank you, Mr. Murphy. Any  
7 objection to the admission of those exhibits?

8 MR. HARVEY: None from Staff, Your Honor.

9 JUDGE TAPIA: Thank you. Hearing no objection,  
10 the Rebuttal Testimony of Kim L. Czak identified as  
11 Frontier Exhibit Number 3.0 and also the declaration  
12 of Kim L. Czak identified as Frontier Exhibit 3.1 are  
13 admitted into evidence.

14 (Whereupon Frontier Exhibits 3.0  
15 and 3.1 were admitted into  
16 evidence.)

17 MR. MURPHY: Thank you, Your Honor.

18 JUDGE TAPIA: Ms. Satter?

19 MS. SATTER: Thank you. I would like to offer  
20 into the record the Direct Testimony of Lee L.  
21 Selwyn. That is AG/CUB Exhibit 1.0. A public and  
22 unredacted version of that testimony was filed on

1 e-Docket on January 11, 2010. Attached to Dr.  
2 Selwyn's testimony are Schedule LLS-1, LLS-2 and  
3 LLS-3. Those schedules were filed on e-Docket on  
4 October 20, 2009. There are both confidential and  
5 non-confidential versions of LLS-2 and LLS-3.

6 The People would also like to offer  
7 AG/CUB Exhibit 2.0 that is the Rebuttal Testimony of  
8 Lee L. Selwyn filed on behalf of the People of the  
9 State of Illinois and the Citizens Utility Board and  
10 that was marked AG/CUB Exhibit 2.0. It was filed on  
11 e-Docket on December 14, 2009.

12 Dr. Selwyn has prepared an affidavit  
13 verifying his statements in these documents and that  
14 has been marked as AG/CUB Exhibit 3.0. I believe  
15 that is being filed on e-Docket today and, if not  
16 today, it will be filed tomorrow. So I would move  
17 for the admission of these documents today.

18 JUDGE TAPIA: Thank you, Ms. Satter. Just for  
19 clarification, AG/CUB Exhibit 1.0 is his direct  
20 testimony?

21 MS. SATTER: Yes.

22 JUDGE TAPIA: Is there any objection to the



1 admission of those two exhibits? Hearing no  
2 objection, the Direct Testimony of Lee L. Selwyn  
3 identified as AG/CUB Exhibit 1.0 along with the  
4 attached Schedule LLS-1, Schedule LLS-2, Schedule  
5 LLS-3, also the Rebuttal Testimony of Lee L. Selwyn  
6 identified as AG/CUB Exhibit 2.0 and the affidavit  
7 identified as AG/CUB Exhibit 3.0 are admitted into  
8 evidence.

9 (Whereupon AG/CUB Exhibits 1.0  
10 with Schedules LLS-1, LLS-2,  
11 LLS-3, AG/CUB Exhibits 2.0 and  
12 3.0 were admitted into  
13 evidence.)

14 MS. SATTER: Thank you.

15 MR. RUBIN: I guess I will go next, Your Honor.

16 JUDGE TAPIA: Okay.

17 MR. RUBIN: Thank you. The International  
18 Brotherhood of Electrical Workers would move into  
19 evidence the following documents: IBEW Exhibit 1.0,  
20 the Direct Testimony and accompanying schedules of  
21 Randy Barber, it was filed on e-Docket on October 20,  
22 2009; IBEW Exhibit 2.0, the Direct Testimony and

1 accompanying schedules of Susan Baldwin which was  
2 also filed on e-Docket on October 20, 2009; IBEW  
3 Exhibit 2.01, a brief errata to the direct testimony  
4 and schedules of Susan Baldwin which was filed on  
5 e-Docket on October 30, 2009; IBEW Exhibit 3.0, the  
6 Rebuttal Testimony of Randy Barber filed on e-Docket  
7 December 14, 2009; IBEW Exhibit 4.0 with accompanying  
8 Exhibits 4.1 through 4.5 which represent the Rebuttal  
9 Testimony and exhibits of Susan Baldwin filed on  
10 e-Docket December 14, 2009. We prepared and filed an  
11 affidavit for Mr. Barber that was labeled IBEW  
12 Exhibit 5.0. That was filed on e-Docket on January  
13 18, 2010. And a similar affidavit from Ms. Baldwin  
14 was labeled IBEW Exhibit 6.0, also filed on e-Docket  
15 on January 18, 2010.

16 May those documents be so identified  
17 and admitted into the record.

18 JUDGE TAPIA: Thank you, Mr. Rubin. Any  
19 objection to the admission of those exhibits?

20 MR. HARVEY: None from Staff, Your Honor.

21 JUDGE TAPIA: Hearing no objection, IBEW  
22 Exhibit 1.0 which is the Direct Testimony and

1 schedules of Randy Barber; IBEW Exhibit Number 2.0  
2 which is the Direct Testimony and schedules of Susan  
3 Baldwin, IBEW Exhibit 2.01 which is errata to the  
4 direct testimony and schedules of Susan Baldwin; IBEW  
5 Exhibit 3.0 which is the Rebuttal Testimony of Randy  
6 Barber; IBEW Exhibit 4.0 which is the Rebuttal  
7 Testimony of Susan Baldwin and the attachments IBEW  
8 Exhibit 4.1 through 4.5 are admitted into evidence.  
9 Also the affidavits identified as IBEW 5.0 and 6.0  
10 are admitted into evidence.

11 (Whereupon IBEW Exhibits 1.0,  
12 2.0, 2.01, 3.0, 4.0, 4.1 through  
13 4.5, 5.0 and 6.0 were admitted  
14 into evidence.)

15 MR. RUBIN: Thank you, Your Honor.

16 JUDGE TAPIA: Do we have everything? Oh,  
17 Mr. Melnikoff.

18 MR. MELNIKOFF: Thank you, Judge. I have a  
19 document entitled Affidavit of Charles W. King I  
20 would like marked as DoD/FEA Exhibit 5. It is an  
21 affidavit and declaration concerning DoD Exhibits  
22 Number -- DoD/FEA Exhibit Number 1 which is the

1 direct testimony and documents -- that document  
2 includes Attachments A through E of Charles W. King,  
3 and also is associated with DoD/FEA Exhibit Number 2  
4 which is the rebuttal testimony docketed and includes  
5 the Attachment A thereto. And I would have that  
6 marked as DoD Exhibit Number 5, the affidavit.

7 JUDGE TAPIA: Okay. Is there any objection to  
8 the admission of those exhibits?

9 MR. HARVEY: None from Staff, Your Honor.

10 MR. MELNIKOFF: I am sorry, do you want me to  
11 file -- I have copies of the affidavit now that I can  
12 give to everybody or I can file it on the e-Docket,  
13 whatever.

14 JUDGE TAPIA: Go ahead and file it on e-Docket.

15 MR. MELNIKOFF: Okay, I will do so. And I  
16 would move for the admission of DoD Exhibit Number 1  
17 which was filed on e-Docket on 10/20/09 and DoD/FEA  
18 Exhibit Number 2 which was filed on December 14, '09,  
19 on e-Docket.

20 JUDGE TAPIA: And that's your rebuttal  
21 testimony?

22 MR. MELNIKOFF: Number 2 is the rebuttal

1 testimony. Number 1 is the direct testimony.

2 JUDGE TAPIA: Any objection to the admission of  
3 those exhibits? Hearing no objection, the exhibits  
4 DoD/FEA Exhibit Number 1.0 and Attachments A through  
5 E which is the Direct Testimony of Charles W. King is  
6 admitted into evidence. Also the rebuttal testimony  
7 identified as DoD/FEA Exhibit Number 2.0 which is the  
8 Rebuttal Testimony.

9 For clarification, Mr. Melnikoff, is  
10 it 2.0 with Attachment A or just --?

11 MR. MELNIKOFF: They are actually included.  
12 The attachments are included in the document itself.

13 JUDGE TAPIA: Okay. And then also the  
14 affidavit of Mr. King identified as DoD/FEA Exhibit  
15 Number 5.0 are admitted into evidence.

16 (Whereupon DoD/FEA Exhibits 1.0  
17 with Attachments A, B, C, D, E;  
18 2.0 with Attachment A; and 5.0  
19 were admitted into evidence.)

20 JUDGE TAPIA: Anyone else?

21 MR. MELNIKOFF: I have two other documents,  
22 Your Honor, beyond the prefiled ones and the

1     affidavit.    They are DoD/FEA Number 3 and that was  
2     used during the cross examination of Mr. Gregg and  
3     there was also another document during that cross  
4     examination which was DoD/FEA Exhibit Number 4.  
5     Those two particular documents were ARMIS, A-R-M-I-S,  
6     documents which are official public documents  
7     published by a federal government agency, the Federal  
8     Communications Commission, and they are available on  
9     the internet, and we request that administrative  
10    notice be taken of ARMIS reports.

11           JUDGE TAPIA:   The Commission will take  
12    administrative notice on that.

13           MR. MELNIKOFF:   And on that basis there is no  
14    need to move the admission of Exhibits 3 and 4.

15           JUDGE TAPIA:   Okay.   Thank you.   Anyone else  
16    wish to enter any exhibits?   Okay.

17           MR. MURPHY:   Your Honor, one other housekeeping  
18    matter just to be clear, I know we do have a briefing  
19    schedule here and I have no reason to change that.   I  
20    wanted to make sure that Your Honor would accept  
21    proposed orders with our reply briefs if any party  
22    wishes to submit one.

1 JUDGE TAPIA: Is there any objection to that?

2 MS. SATTER: I do want to object to the  
3 submission of a proposed order. I believe a proposed  
4 order is appropriate when there is agreement among  
5 all the parties. When there is not an agreement  
6 among all the parties, I think a proposed order  
7 carries significant risks of potentially distorting  
8 other parties' decisions, having conclusions  
9 concerning other parties' conclusions that are  
10 inappropriate or that inappropriately influence the  
11 ultimate disposition by creating a package outside of  
12 a brief for final disposition.

13 So, yes, I would object to the  
14 submission of a draft proposed order.

15 MR. ROONEY: Your Honor, speaking on behalf of  
16 Verizon, the Rules of Practice fully contemplate the  
17 practice of filing a draft order. It is nothing  
18 inequitable in almost any case where it has been  
19 requested. This is not a question -- if there is an  
20 issue about mischaracterizing a party's position,  
21 that party certainly can submit something to that  
22 effect to the ALJ.

1                   The fact is that under Part 200 of the  
2   Commission's Rules of Practice leave is granted.  If  
3   you need, we can cite to numerous instances in rate  
4   cases and in other proceedings where draft orders are  
5   submitted in contested proceedings.  This is not an  
6   abnormal request in any sense.

7           MS. SATTER:  At I think the rules provide that  
8   it is within your discretion and it is within any  
9   ALJ's discretion.  Mr. Rooney is right that there  
10  have been proposed orders in all kinds of cases, and  
11  it is my opinion that has not necessarily resulted in  
12  a good result or in a good process before the  
13  Commission, and that's why I am objecting to it.

14           JUDGE TAPIA:  Anyone else wishes to speak?

15           MR. RUBIN:  Your Honor, I would suggest that if  
16  you desire a proposed order to be submitted, that it  
17  be submitted with the main briefs so that other  
18  parties have an opportunity to respond to it or  
19  modify it along with their reply brief.

20           MR. MURPHY:  Honor, two things, any party  
21  submits a proposed order.  It is ultimately up to you  
22  and your reading of the briefs and the parties'



1 positions to decide whether to accept it in whole, in  
2 part, to interlineate it, throw it away, that is  
3 really your call. And I think you have that  
4 discretion, that capacity.

5 I would also point out that under the  
6 standard Illinois schedule, when you issue your own  
7 proposed order, all the parties will have an  
8 opportunity to file objections to it and if any  
9 mischaracterization is carried through to your  
10 proposed order, I would expect the parties to take  
11 exception to it, and they will have that opportunity.

12 JUDGE TAPIA: Anyone else wishes to speak?

13 MS. VON QUALEN: Yes, thank you, Judge. Staff  
14 has no objection to the filing of draft orders. I  
15 would want to be very careful that they are not  
16 called proposed orders as those are what the ALJ  
17 provides and it would give it a feeling of not being  
18 a draft order.

19 We find that filing of a draft order  
20 with the reply brief is reasonable. I am a little  
21 concerned about the proposal to file a draft order  
22 with the initial briefs as that just adds a whole

1 another level of briefing onto what is already a  
2 fairly difficult briefing schedule. So that to the  
3 extent that you would like to have draft orders, I  
4 think it could be made clear that a party providing a  
5 draft does not mean they are writing the order for  
6 you, that you would review them and that parties  
7 would have an opportunity in their briefs on  
8 exceptions should you take portions of the objective  
9 to draft an order and use them as your own.

10 JUDGE TAPIA: So, Ms. Von Qualen, so I  
11 understand, you don't object to the draft order but  
12 that would be due after the initial briefs?

13 MS. VON QUALEN: I think typically they are  
14 filed at the same time as the reply briefs. It gives  
15 parties an opportunity to write the initial brief  
16 which tends to be longer and more detailed than the  
17 reply brief. And then with the reply brief they  
18 oftentimes prepare a draft order. And I don't think  
19 it is necessary for parties to respond to each  
20 other's draft orders. It is only in the event that  
21 you would adopt portions of a draft order that  
22 parties would need to respond to them, and then they

1     would have the opportunity in the briefs on  
2     exceptions to respond to your proposed order.

3             MR. HARVEY:   And just to amplify Ms. Von  
4     Qualen's thoughts here, one thing you could direct  
5     the parties to do is summarize their own positions  
6     and refrain from summarizing anyone else's.

7             JUDGE TAPIA:   That's one of the sections I have  
8     in my brief outline that I will go over with you.   As  
9     far as the, let's call it a draft order for the sake  
10    of clarity, I am going to defer my ruling on this.   I  
11    am going to look up the rule and then decide whether  
12    or not I want draft orders.   And I will do that  
13    sooner than later, because I know this is a very  
14    tight schedule.

15            Anything else before we talk about  
16    brief outlines?   Okay.   I want the briefs to include  
17    the following sections:   Statement of the case, a  
18    summary of the position of the party, the applicable  
19    statutory authority, an argument section and a  
20    conclusion.

21            MR. HARVEY:   For those of us who write poorly,  
22    Your Honor, could you summarize your position?

1 Applicable statutes is three.

2 JUDGE TAPIA: Yes, argument and conclusion. So  
3 let me go over it one more time. It is a statement  
4 of the case, a summary of position section and  
5 applicable statutory authority section and argument  
6 section and a conclusion. The initial briefs are due  
7 on February 9. If everyone would be so kind as to  
8 send me a courtesy copy in Word format by e-mail.

9 MS. SATTER: Do you want a paper copy?

10 JUDGE TAPIA: Yes, I would like a paper copy,  
11 which is what I do. So if I could have a paper copy  
12 as well.

13 MR. RUBIN: Your Honor, by what date would you  
14 need the paper copy and is it overnight delivery?

15 JUDGE TAPIA: No, you can send it the day you  
16 file, I mean, if you file on February 9. If I get  
17 the Word copy, I can just delete it. So that would  
18 be fine, just send it regular mail.

19 MR. RUBIN: All right, fine. Thank you.

20 JUDGE TAPIA: Any questions regarding the brief  
21 outline? Okay. Then we will move on.

22 Ms. Satter and Mr. Murphy, did you

1     have an opportunity to talk about whether or not  
2     there will be a motion to strike or is that off the  
3     table or have you had an opportunity to talk about  
4     that?

5             MS. SATTER:   I think it was resolved.

6             JUDGE TAPIA:   It was resolved?

7             MS. SATTER:   Well, resolved in the sense that  
8     when the transcript is available, I will review the  
9     transcript and then I will file a motion, assuming  
10    that the transcript bears out what I recall.  We  
11    didn't talk about anything else.

12            MR. MURPHY:   We didn't talk about it, but.

13            JUDGE TAPIA:   It is not an issue until it  
14    becomes an issue?

15            MR. MURPHY:   It is not an issue until it  
16    becomes an issue.

17            JUDGE TAPIA:   Then we will leave it at that.

18                         Thank you.  That's all I had on my  
19    list.  Is there anything else that we need to  
20    discuss?

21                         Okay.  I am not going to mark the case  
22    heard and taken until the people can file their

1     declarations and then at a later point I will just  
2     mark it heard and taken without anyone's attendance  
3     if it can be arranged, when I see that it is  
4     appropriate to close.

5                     Then I will continue it generally.

6     Thank you very much.

7                     (Whereupon the hearing in this  
8                     matter was continued generally.)

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